

<p align="center"><b>State of Vermont Agency of Human Services Department of Corrections</b></p>	<p align="center"><b>HOME DETENTION</b></p>		<p align="right">Page 1 of 11</p>
<p>Chapter Classification and Case Planning</p>	<p align="center"><b>INTERIM PROCEDURE</b></p>	<p align="right">Revised. Supersedes Interim Procedure Home Detention dated 7/01/10.</p>	
<p><b>Attachments, Forms &amp; Companion Documents:</b></p> <ol style="list-style-type: none"> <li>1. Application for Home Detention</li> <li>2. Home Detention Investigation Form</li> <li>3. Department Request for Review for Home Detention</li> <li>4. Notice to Court of Home Detention Revocation form</li> </ol>			
<p><b>Local Procedure(s) Required:</b> Yes; intake process for local field sites (see section 3a).  <b>Applicability:</b> All staff (including contractors &amp; volunteers)  <b>Security Level:</b> "B" - Anyone may have access to this document.</p>			
<p><b>Approved:</b></p> <div style="display: flex; justify-content: space-between; align-items: center;"> <div data-bbox="315 848 779 953" style="text-align: center;">   <hr/> <b>Andrew A. Pallito, Commissioner</b> </div> <div data-bbox="834 884 1094 953" style="text-align: center;"> <u>January 25, 2012</u>  <b>Signed</b> </div> <div data-bbox="1208 884 1451 953" style="text-align: center;"> <u>February 1, 2012</u>  <b>Effective</b> </div> </div>			

**PURPOSE**

The purpose of this Interim Procedure is to provide direction for Department of Corrections staff as it pertains to offenders referred to the Home Detention Program.

**POLICY**

It is the policy of the Vermont Department of Corrections to supervise persons in its custody in the least restrictive environment consistent with public safety and offense severity.

**AUTHORITY**

13 V.S.A. § 7554b.

**REFERENCE**

Department Policy #410 *Due Process*; Department Administrative Directives #407.03 *Unauthorized Absence From Furlough or Conditional Reentry*, and #410.02 *Violations of FR/CR/PAF*.

**DEFINITIONS**

Bail: A monetary value imposed by a Court on a defendant who has been locked up at a correctional facility who is suspected of criminal activity. A defendant can post, or pay, the bail amount levied by the court, in exchange for their release from a correctional facility.

Defendant: A person who has been charged with a criminal offense and who is subject to criminal court proceedings.

Detainee: A person who has been remanded to a correctional facility pending adjudication of alleged criminal violations. The person being detained generally will have bail placed on them by the Court.

Electronic Monitoring: Any electronic device or technology that automates, replicates, or supports supervision tactics that would normally require direct staff presence or resources.

Escape: Any action by the offender, which leads Corrections' employees to believe the offender, intends to absent him or herself from state custody or supervision.

Home Detention: A program of confinement and supervision that restricts a defendant to a pre-approved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections.

Home Detention Program Supervisor: A Community Corrections Program Supervisor whose responsibilities include the oversight and management of the Home Detention program for their district.

Pro Se: Pro se legal representation means advocating on one's own behalf before a court, rather than being represented by a lawyer.

## **PROCEDURAL GUIDELINES**

Home Detention is a program of confinement and supervision that restricts a defendant to a pre-approved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections, as defined by statute. This form of supervision is designed for detainees who have traditionally remained incarcerated for lack of bail. This status provides the Department and the Court an alternative way to address this population in the least restrictive environment, while taking into account public safety.

### **1. Court Referral Process**

- a. A defendant who has been detained in a correctional facility for more than seven (7) calendar days for lack of bail may be reviewed by the Court for placement onto Home Detention.
  - i. A defendant, or their legal counsel, may petition the Court to consider a defendant's placement onto Home Detention by submitting *Attachment 1, Application for Home Detention*, to the Court.
  - ii. The Court will schedule a hearing to review the motion, and in the course of determining the defendant's appropriateness for Home Detention will consider:
    - The nature of the offense with which the defendant is charged;
    - The defendant's prior convictions, history of violence, medical and mental health needs, history of supervision and risk of flight; and
    - Any risk or undue burden to other persons who reside at the proposed residence, or risk to third parties or to the public safety that may result from such placement.

- b. If the Court, after consideration of the above, determines that Home Detention is appropriate, a copy of the *Home Detention Application* will be sent to the appropriate Probation office for review.
- c. The Probation office receiving the referral for Home Detention is charged with determining if the proposed residence supports the use of electronic monitoring devices, either through cellular or landline telephone communications.
- d. The Department is not charged with determining the defendant's level of risk or appropriateness for Home Detention; the Court bears this responsibility.
- e. In the event that cellular technology is not available for that geographic area, and a landline is not actively present, the responding officer will inform the Court of this, indicating that if a landline is installed and verified the proposed residence would be approved.
- f. The staff person investigating the proposed residence will reply to the Court using *Attachment 2, Home Detention Investigation Form*.
- g. If the Court orders Home Detention for the defendant, the Court will issue a *Home Detention Bail Mitt*. The Mitt should include the conditions imposed by the Court, any approved appointments/schedules and a bail amount, in the event that the defendant violates the terms of Home Detention and is brought back to a correctional facility.

## 2. Department Referral Process

All offenders who are currently under field supervision by the Department of Corrections and have been incarcerated for a new offense or a violation of probation will be reviewed by the assigned Facility Caseworker for Home Detention status if the offender has been detained for more than seven (7) days in a correctional facility for lack of bail. The Facility Caseworker will need to contact the assigned Probation Officer to determine if the defendant is appropriate for Home Detention.

- a. In determining appropriateness, the case co-managers will take into account all of the following:
  - i. The nature of the offense(s) with which the defendant is charged;
  - ii. The defendant's prior convictions;
  - iii. The defendant's history of violence;
  - iv. The defendant's medical and mental health needs;
  - v. Their history of supervision;
  - vi. Their risk of flight; and
  - vii. Any risk or undue burden to other persons who reside at the proposed residence, or risk to third parties or to public safety that may result from such placement.
  - viii. If the proposed residence supports cellular electronic monitoring, and/or if a landline, telephone is active and present.
- b. If the case co-managers determine that the defendant would be appropriate for Home Detention status, the Probation Officer will notify the Home Detention Supervisor of the recommendation for Home Detention placement.

- c. If the Program Supervisor determines that the defendant is an appropriate candidate for Home Detention, the Probation Officer will submit a *Department Request for Review for Home Detention, Attachment 3*, to the Court.
- d. If the Program Supervisor determines that the defendant is not appropriate for Home Detention, they will notify the case co-managers and document the findings in electronic case notes.
- e. The *Request for Review for Home Detention* must provide the following information:
  - i. Current offense with which the defendant is charged;
  - ii. Proposed address of the residence for placement on Home Detention, with a landline telephone (no cell or digital); and
  - iii. If employed, the name, address, and telephone number of the employer.

### 3. Home Detention Supervision

#### a. Intake

District Managers will set up a process for the intake of defendants on Home Detention status, which will include, but not be limited to, the following:

- i. Updating or adding the defendant's information (e.g., address, charges, etc.), and taking a digital photo;
- ii. Explanation of electronic monitoring devices assigned to the defendant, that will assist in the supervision and monitoring of Court conditions;
- iii. Defendant's acknowledgement and signature on the electronic monitoring contract which is provided by the electronic monitoring vendor;
- iv. Review of the approved schedule imposed by the Court;
- v. Explanation of the role of the Probation Officer and supervision;
- vi. Entering an electronic case note outlining the index offense(s), the detainee's status, and approved absences.
- vii. Review, explanation and signature by the defendant on the general Furlough conditions.

#### b. Supervision

- i. The District Manager will designate a supervisor (Home Detention Program Supervisor) who will be responsible for the Home Detention Program in their field site.
- ii. Community Corrections Officers (CCOs) will be responsible for the day-to-day supervision of detainees on Home Detention. The CCOs are responsible for providing surveillance through the use of electronic monitoring.
- iii. CCOs will perform a daily review of all electronic monitoring device reports and determine if the defendant is in compliance with their conditions. These activities will be documented in electronic case notes each day.

- iv. The Home Detention Program Supervisor is responsible for:
  - a.) Any Court hearings that are required;
  - b.) Approving any changes to the Court-approved schedule;
  - c.) Ensuring a daily check of the defendant's compliance with the electronic monitoring;
  - d.) Approving any revocations of a defendant's Home Detention status.  
(See *Directive 410.02, Furlough Violations.*)
- v. Field contacts will be in response to notifications or discoveries of violations from electronic monitoring, or when other information is discovered during the course of supervision.

#### **4. Electronic Monitoring**

All defendants on Home Detention will be monitored by Global Positioning Satellite (GPS) or other location-monitoring devices. If there is a "no alcohol condition" as directed by the Court, then alcohol-monitoring devices will also be used.

#### **5. Response to Violating Behavior**

- a. If through the course of supervision, the defendant violates a condition of their Home Detention, Department staff may suspend the defendant's Home Detention status and return the defendant to the custody of a correctional facility pending a due process hearing.
- b. Whenever possible, taking custody of the defendant should be conducted at the local field office. If it is not possible to take the defendant into custody at the field office, local law enforcement should be utilized in making the arrest.
- c. When lodging a defendant in a correctional facility, field staff will use the *Notice of Hearing Form* in accordance with *Administrative Directive #410.02 Furlough Violations* as lodging paperwork.
- d. The defendant will have the right to a due process hearing in accordance with *Administrative Directive #410.02*.
- e. If the defendant is found in violation at their due process hearing, the assigned field staff will complete the *Notice to Court of Home Detention Revocation* form, *Attachment 4*, and send it to the assigned Court. If the defendant is not found in violation of Home Detention, the defendant will be released back on Home Detention status.

#### **6. Escape**

If staff cannot locate the defendant, they should place the defendant on escape in accordance with administrative directive #407.03 *Unauthorized Absence from Furlough or Conditional Re-entry*.

#### **7. Bail**

The defendant may post bail while on Home Detention status. Bail will need to be posted at Court during Court hours. Field staff are not authorized to collect bail money. Once staff receive the official document from Court, then the defendant will be released from Home Detention status.

#### **8. Documentation**

All information regarding a defendant's status and movement will be maintained within the DOC database applications system and offender file. The maintenance of electronic and paper files is critical for case management purposes and will be promptly recorded and maintained by both facility and field staff, as relevant.

## **TRAINING**

1. The Director of Community Corrections, Re-entry & Classification will ensure that all District Managers are trained in this Interim Procedure and will provide training on the use of electronic monitoring for all necessary field staff.
2. District Managers will ensure that all appropriate staff are trained in this Interim Procedure.
3. The Director of Community Corrections, Re-entry & Classification will ensure that all appropriate staff are trained in the booking process as it relates to Home Detention.
4. The Facility Superintendents will ensure that all Living Unit Supervisors train casework staff on the referral process for the Home Detention program.

## **QUALITY ASSURANCE**

### **Each Facility Superintendent and District Manager will ensure that:**

1. The facility and field have assigned staff resources for purpose of referral, supervision, and data tracking of defendants who meet the criteria of Home Detention;
2. Communication occurs between the field office and the facility(s) regarding referrals and administrative tasks as they pertain to Home Detention status;
3. Staff monitor, track, and maintain a list of all eligible inmates who are to be referred and who have been released to Home Detention.

### **Central Office will:**

1. Monitor the effectiveness of this procedure, with an emphasis on developing needed supports or training to assist staff.
2. Develop performance measures to ensure compliance with this procedure and legislative mandate (process and outcome). The objective of such measures is to assess the effectiveness of the Home Detention Program in terms of reducing the need for future jail beds, saving money for the Agency of Human Services and taxpayers, and lowering crime rates.

**ATTACHMENT 1 - SAMPLE**

STATE OF VERMONT

SUPERIOR COURT

CRIMINAL

DIVISION

\_\_\_\_\_ Unit

Docket

No.

STATE of VERMONT	v.	Defendant's Name	DOB / /
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**APPLICATION FOR HOME DETENTION PROGRAM**

The above named Defendant hereby requests that the Court order that he/she be placed in the Home Detention Program pending further court proceedings or further order of the court permitting his release. As grounds for the request, Defendant hereby states as follows:

1. **Charges:** Defendant is charged with the following offenses:

Docket No.	Offense

2. On \_\_\_\_\_, Defendant was ordered:

- Held pending payment of \$ \_\_\_\_\_ in cash on an Appearance Bond in the amount of \$ \_\_\_\_\_.
- Held pending payment of \$ \_\_\_\_\_ cash or Bail Bond with solvent securities.
- Held without bail.

3. Defendant has been detained at a correctional facility in the custody of the Commissioner of Corrections for lack of bail for at least seven days. Defendant is currently unable to post bail in the amount ordered by the Court.

4. If Defendant was approved for the Home Detention Program, he/she agrees to reside at the following address:

Street and Apt #, if any	
Town/City	
State	Zip code

5. The owner of the residence is: \_\_\_\_\_.

6. The residents of this household are:

\_\_\_\_\_  
\_\_\_\_\_.

7. If other than Defendant, the owner of the residence approves of Defendant's residence at the home and will comply with electronic surveillance equipment.

8. There is a landline phone at the residence that can be used in connection with the Department's electronic surveillance equipment. The phone number for the landline is \_\_\_\_\_.  
*(Please note: The phone number must be a landline. A cellular or digital phone cannot be substituted.)*

9. If approved for the program, Defendant requests that the Court approve his/her absence from the home for the following purposes:

- Court appearances for these proceedings (no transport required)
- Employment at \_\_\_\_\_
- Treatment appointments at \_\_\_\_\_
- Medical appointments at \_\_\_\_\_
- Attorney appointments at \_\_\_\_\_
- Educational Services operated by the Department of Corrections.\*\*
- Other approved absences: \_\_\_\_\_

\*\*All persons under the custody of the commissioner of corrections who are under 23 years of age and have not received a high school diploma shall participate in the education program unless exempted by the commissioner per Title 28 VSA 120.

10. If approved for the program Defendant is willing to comply with his/her conditions of release, the standard conditions for the Home Detention Program, and any other conditions the Court may order.

11. If approved for the program the Defendant will be financially responsible for any lost or damaged electronic monitoring equipment that is assigned to them by the Department of Corrections.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Defendant

Cc: State's Attorney

Department of Corrections

**ATTACHMENT 2 – SAMPLE**

*January 2012*

**HOME DETENTION INVESTIGATION FORM**

\_\_\_\_\_ Superior Court / Judge \_\_\_\_\_ is requesting a review for Home Detention status for the below-named defendant to determine whether the defendant meets the necessary criteria to be supervised on Home Detention status by the Department of Corrections.

Defendant:	Presiding Court:
DOB:	Date of Request:
Facility:	Charges:
Field Office:	Current Bail:
Probation Officer:	Facility Caseworker:

The defendant has proposed the following address if placed on Home Detention – (This residence must have a landline phone.):

Proposed Address:

Other Occupants at Address:

Landlord:

Does this residence meet the necessary requirements to allow the Department of Corrections to supervise the defendant on Home Detention?  Yes  No

If no, please explain:

Comments on the Investigation:

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In order to be on Home Detention the defendant must agree to the following:

- Abide by all conditions of release and family court orders
- Be placed on Electronic Monitoring 24 hrs a day
- Will not possess or consume alcoholic beverages, nor will there be any in your approved residence
- Will not consume any regulated drugs unless they are prescribed by a physician
- Will not be in possession of a firearm or dangerous weapon
- Violent or threatening behavior is not allowed
- Will remain in the residence at all times unless authorized to leave in advance by the Court or the DOC
- Defendant must sign and abide by the general conditions of furlough

Home Detention is a program of confinement and supervision that restricts a defendant to a pre-approved residence continuously except for authorized absence, and is enforced by appropriate supervision and electronic monitoring by the Department of Corrections. The Court shall authorize scheduled absences such as work, treatment and education. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on Home Detention shall remain in the custody of the Commissioner of the Department of Corrections with the conditions set by the Court.

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If you are placed on Home Detention by the Court, the Department of Corrections may revoke your Home Detention status for any unauthorized absence, or failure to comply with any conditions of release set by the Court. A revocation of Home Detention status will result in you being returned to a correctional facility.

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DOC Staff Signature                      Date                      Defendant’s Signature

**ATTACHMENT 3 - SAMPLE**

**Vermont Department of Corrections**

**DEPARTMENT REQUEST FOR REVIEW - HOME DETENTION**

The Vermont Department of Corrections is requesting a review for Home Detention status for the below-named defendant. In making this request to the Court, the Department finds that the defendant meets the necessary criteria to be supervised on Home Detention status by the Department of Corrections.

Defendant:	Presiding Court:
DOB:	Date of Request:
Facility:	Charges:
Field Office:	Current Bail:
Probation Officer:	Facility Caseworker:

The defendant has proposed the following address if placed on Home Detention Status - (This residence must have a landline telephone.):

The defendant has indicated the following employment information:

Name of Employer: \_\_\_\_\_

Name of Supervisor: \_\_\_\_\_

Current Work Schedule: \_\_\_\_\_

Home Detention is a program of confinement and supervision that restricts a defendant to a pre-approved residence continuously except for authorized absence, and is enforced by appropriate supervision and electronic monitoring by the Department of Corrections. The Court shall authorize scheduled absences such as work, treatment, and education. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on Home Detention shall remain in the custody of the Commissioner of the Department of Corrections with conditions set by the Court.

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If you are placed on Home Detention by the Court, the Department of Corrections may revoke your Home Detention status for an unauthorized absence, or failure to comply with any conditions of release set by the Court. A revocation of Home Detention status will result in a defendant being returned to a correctional facility.

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Defendant's Signature

Date

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DOC Staff Signature

Date

*Cc: Offender's file*

**ATTACHMENT 4 - SAMPLE**

**NOTICE TO COURT OF HOME DETENTION REVOCATION**

**Defendant Name:**

**Court:**

**Probation and Parole Office:**

This is notice to the Court that the above-named defendant has violated a condition(s) of Home Detention and has been returned to a correctional facility; their Home Detention status has been revoked by the Vermont Department of Corrections as authorized by Title 13 V.S.A. § 7554b(c).

The above was returned to \_\_\_\_\_ on \_\_\_\_\_  
Facility Name Date

The above has been found in violation of the following conditions of Home Detention:

\_\_\_\_\_  
\_\_\_\_\_

The above was found in violation at their due process hearing held on:

\_\_\_\_\_  
Date of Hearing

\_\_\_\_\_  
*Corrections Staff Name and Title*

\_\_\_\_\_  
*Signature and Date*

*Cc: Offender's file*

*January 2012*