

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: S.212

Name of Bill: An Act relating to court-approved absences from Home Detention and Home Confinement Furlough

Agency/ Dept: AHS/DOC

Author of Bill Review: Dale Crook

Date of Bill Review: 5/23/2016 Related Bills and Key Players:

Status of Bill: (check one): Upon Introduction ☐ As passed by 1st body ☒ As passed by both

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill addresses several areas related to the supervision of persons charged with or adjudicated of a criminal offense. The main topics are: 1) Allowing the court to place someone on electronic monitoring when released prior to trial; 2) Allows for the expansion of the Windham County Electronic Monitoring program to other parts of the state; 3) Requires the Windham County Sheriff to establish written policies and procedures for the Electronic Monitoring Pilot; 4) Requires the DOC to enter into an MOU for oversight and funding of the electronic monitoring program; 5) Requires the DOC or the court to notify the prosecutor's office when there is a change in a schedule for a person placed on home confinement furlough; 6) Requires a report to the legislature from the Windham County Sheriff's Office regarding the Electronic Monitoring Program; and 7) Requires the Joint Legislative Justice Oversight Committee to evaluate disparities in sentencing.

2. Is there a need for this bill?

This bill will make the process for the electronic monitoring program more transparent and is attempting to address the incarcerated detention population. Section 6 allows for a report to the legislature on the program to determine if it is an effective program and its effects on reducing the incarcerated detention population.

Section 4 that is related to home confinement is not necessary. The added language makes Home Confinement less flexible and appealing for offenders. The purpose of the added language was for victim notification from the States Attorney's office. The role of States Attorney's Victim Advocates is to work with victims of offenders during the court process up and until sentencing. Once an offender is sentenced there that role is moved to the VT DOC Victims Services Unit.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

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The part section (4) related to home confinement furlough may have a negative impact on the number of offenders being sentenced and increased workload issues for both the VT DOC and the States Attorney's Offices. Staff members will have to ensure that notifications are sent according to the timelines established.

The Department did provide testimony that we thought the requirement for home detention was appropriate but not for home confinement as the cases are pre adjudicated and still under the purview of the court and state's attorneys. We believe it was an oversight in that it appears the version passed removed the requirement from home detention but left it in home confinement.

The intent of the electronic monitoring section of this bill is to increase the use of the electronic monitoring program and to study if it does result in any cost savings. The intent was for the program to be financed by the DOC, which would be achieved by moving funds from the OOS budget to the electronic monitoring program. \$200,000 was removed from the OOS budget. This was in the budget notes as "OOS beds savings from SJC (Senate Judiciary Committee) justice policy change impact". It was understood that these funds would be used for the electronic monitoring program, though we are now told that this may not be the case. If this is accurate, the program would not have any allocated funds, but would instead need to be financed by the DOC through direct savings to the OOS budget as a result of this program

- 4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** Section 4 will require the court to have set schedules for offenders. In addition, they will be the only authority to modify a non-listed offenders schedule. Any time there is a need to change a schedule it will need to go back to the court for approval and will also have to include a notification to prosecutors if they change schedules. This would lead to an increase in court hearings. Also there will need to be a 72 hour waiting period before the change of a schedule is approved and goes into effect.

The State's Attorneys and Sheriffs will enter into an MOU with the Corrections who would provide oversight to participating Sheriff's departments.

The Windham County Sheriffs will need to develop procedures for the Electronic Monitoring Program and work on expanding to other counties.

- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?**

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Victims' Advocates will likely support this proposal as it would lead to increased victim notification.

6.2 Who else is likely to oppose the proposal and why?

- 7. Rationale for recommendation:** Overall the Department supports this bill as it puts the responsibility on the courts to create and modify schedules for offenders on home confinement and defendants on home

detention. In addition, we were in agreement with strategies in reducing our detention population while not having a negative impact on public safety. However, it remains to be seen if the detention population is reduced by the program.

8. **Specific modifications that would be needed to recommend support of this bill:** The change in statute around Home Confinement has some issues. Home Confinement is a sentenced furloughed offender and now requires the department to go back to the court to authorize a change in schedule. This makes home confinement more burdensome for the Department, the courts, States Attorneys and Defense Attorneys. For example, all non-violent home confinement cases can only have their approved absences changed by the court, while violent offender's schedules could be changed by the court or the Department.

One of the purposes of this updated language change was to allow victim notification by the States Attorney's victim services out of their offices. The Department has in place victim services staff that currently are working with the victims of sentenced offenders the Department supervises. After the schedule has been approved there is a 72 hour waiting period before it can go into effect. This could make it troublesome for Probation and Parole Officers managing cases where there could be changes in employment and treatment for an offender and the delay could have negative consequence for them. For example, if an offender informs his Probation Officer that they have a job interview the following day, they would not be able to attend and could lose that employment opportunity as there would need to be a 72 hour waiting period before the change could go into effect. The testimony provided by the Department, States Attorneys and Sheriffs Association, Public Defender and Courts indicated the there was not a need to change the Home Confinement statute. The change in statute would be better suited for Home Detention as the participants have not been convicted, are still under court jurisdiction and the DOC only provides surveillance of the offender with the use of electronic monitoring equipment and does not provide case management services as they do with Home Confinement. Home detention cases should have more oversight and notification for the victims by the States Attorney's office and the courts as they are defendant and not sentenced offenders.

9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?** No

Secretary/Commissioner has reviewed this document: _____ **Date:** _____