

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<p style="text-align: center;"><b><u>INTERIM MEMO:</u></b> <b>HOME DETENTION</b></p>	<p style="text-align: right;">Page 1 of 8</p>						
<p><b>Local Procedure(s) Required:</b> Yes. <b>Applicability:</b> All staff (including contractors and volunteers) <b>Security Level:</b> “B” – Anyone may have access to this document.</p>								
<p><b>Approved:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; vertical-align: top;"><b>SIGNED</b></td> <td style="width: 33%; text-align: center; vertical-align: top;"><b>06/20/2018</b></td> <td style="width: 33%; text-align: center; vertical-align: top;"><b>07/01/2018</b></td> </tr> <tr> <td style="border-top: 1px solid black; text-align: center;">Lisa Menard, Commissioner</td> <td style="border-top: 1px solid black; text-align: center;">Date Signed</td> <td style="border-top: 1px solid black; text-align: center;">Date Effective</td> </tr> </table>			<b>SIGNED</b>	<b>06/20/2018</b>	<b>07/01/2018</b>	Lisa Menard, Commissioner	Date Signed	Date Effective
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Section 1, titled, **Court Referral Process**, and Section 2, titled, **Department Referral Process** in the in Administrative Directive #431.01 *Home Detention* is being replaced. The following updated language is now effective:

**1. Court Referral Process**

- a. A defendant, or their legal counsel, may petition the court to consider a defendant’s placement onto Home Detention by submitting an *Application for Home Detention* to the Court.
- b. The court will review the application, and upon approval will issue an Entry Order directing DOC to investigate for suitability of Home Detention.
- c. The applicable field site will conduct the investigation for suitability of Home Detention. This investigation shall determine if the proposed residence supports the use of electronic monitoring devices, either through cellular or landline telephone communications.

*Note: The responsibility of determining the defendant’s level of risk or appropriateness for Home Detention is solely within the court’s discretion and is not the responsibility of the DOC. If the investigating officer feels that there is a public safety risk with the proposed residence, then he/she shall notify the State’s Attorney assigned to the case.*

- d. If cellular technology is not available for that geographic area, and a landline is not actively present, the field staff assigned to the investigation shall inform the court of this, indicating that if a landline is installed and verified the proposed residence would be approved.
- e. The staff person investigating the proposed residence shall reply to the court using the *Home Detention Investigation Form* within seven days of receipt of the Entry Order.

- f. If the court orders Home Detention for the defendant, the court will issue a Home Detention Bail Mittimus. The mittimus should include the conditions.

## 2. Department Referral Process

- a. The Facility CSS shall screen all detainees for potential placement on Home Detention (HD) within five business days of intake and document the screening in the Home Detention Screening custom form within the detainees Offender Management System (OMS) record.
  - i. The Facility CSS shall complete the *Department Request for Review – Home Detention* form for any detainee who meets the following requirements. The *Department Request for Review – Home Detention* form shall be uploaded into the OMS attachments tab using the document name “*Department Request for Review – Home Detention*” and the category “*Investigation Information and Outcome.*”
    - (1) Detained for a non-listed offense; and
    - (2) Has a Vermont residence<sup>1</sup>.
      - A. Inmate has reported that the residence has cellular service or land line.
      - B. Residence if subsidized is approved for the defendant to live there.
      - C. Residence has been approved by DCF if there is a reasonable belief that the defendant presents a risk of harm to children at the residence.<sup>2</sup>
      - D. If there are minors in the residence – the defendant does not pose a risk of sexual abuse or physical injury to children residing in a home where children live.<sup>3</sup>
  - ii. For detainees who were previously under DOC supervision within the last three years the following additional information is to be disclosed:
    - (1) Low or moderate risk assessment score; and/or
    - (2) Successful completion of community supervision.
- b. Upon completion of the *Department Request for Review – Home Detention* form the Facility CSS shall email the Site Legal Administrator (SLA) notifying them of the request.
  - i. Once uploaded into OMS, the SLA shall send the form to the Court Clerk to be reviewed by the court.

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<sup>1</sup> The residence does not need to be approved, rather the detainee simply must have a residence to go to if released on Home Detention.

<sup>2</sup> [Refer to the DOC and DCF MOU on Child Protection Measures.](#)

<sup>3</sup> [Refer to the DOC and DCF MOU on Child Protection Measures.](#)

- ii. The court will review the application, and upon approval will issue an Entry Order directing DOC to investigate for suitability of Home Detention.
- iii. The applicable field site will conduct the investigation for suitability of Home Detention. This investigation shall determine if the proposed residence supports the use of electronic monitoring devices, either through cellular or landline telephone communications.

*Note: The responsibility of determining the defendant's level of risk or appropriateness for Home Detention is solely within the court's discretion and is not the responsibility of the DOC. If the investigating officer feels that there is a public safety risk with the proposed residence, then he/she shall notify the State's Attorney assigned to the case."*

- iv. If cellular technology is not available for that geographic area, and a landline is not actively present, the field staff assigned to the investigation shall inform the court of this, indicating that if a landline is installed and verified the proposed residence would be approved.
- v. The staff person investigating the proposed residence shall reply to the court using the *Home Detention Investigation Form*.

If the court orders Home Detention for the defendant, the court will issue a Home Detention Bail Mittimus. The mittimus should include the conditions.

### **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.) into OMS, and taking a digital photo and import into OMS;
- 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 authorized absences approved by the Court or the Department of Corrections;
- v. Explanation of the role of the Supervising Officer and supervision;
- vi. Entering an OMS contact note outlining the current offense(s), and court approved absences.
- vii. Review the conditions assigned by the court.

#### **b. Supervision**

- i. The District Manager will designate a CCPS who will be responsible for the Home Detention Program for their 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 OMS contact notes each day.
- iv. The CCPS is responsible for:
  - (1) Any Court hearings that are required;
  - (2) Approving any changes to the schedule;
  - (3) Ensuring a daily check of the defendant's compliance with the electronic monitoring;
  - (4) Approving a return of a defendant's HD status based on a violation(s) of court conditions.
- v. Field contacts will be in response to notifications or discoveries of violation of court conditions from electronic monitoring, or when other information is discovered during the course of supervision.
- vi. Out of State travel is permitted if it is approved by the court, or for medical emergencies. A travel permit is not required to authorize out of state travel.

## **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.
- b. Whenever possible, taking custody of the defendant should be conducted at the local field site. If it is not possible to take the defendant into custody at the field site, local law enforcement should be utilized in making the arrest.
- c. When lodging a defendant in a correctional facility, field staff will use the affidavit by the supervising officer.
- d. The assigned field staff shall complete the *Notice of Court of Home Detention Revocation* form and send it to the assigned Court. The *Notice of Court of Home Detention Revocation* form shall be uploaded into the OMS attachments tab using the document name "*Notice of Court of Home Detention Revocation*" and the category "*Supervision Information.*" If the defendant is not found in violation of Home Detention, the defendant will be released back on Home Detention status. If being released back on Home Detention status staff shall ensure that the defendant is residing at the same address as previously provided.

## **7. Unapproved Absence from Home Detention**

- a. If staff cannot locate the defendant, they shall:
  - i. File an affidavit with the court notifying them of the defendant's status; and

- ii. Document the unapproved absence in OMS by processing a TEMP release.

The following historic language, found in Administrative Directive #431.01 *Home Detention* has been superseded with the above:

### **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 an *Application for Home Detention* to the Court.
  - ii. The Court will schedule a hearing to review this motion.
  - iii. The court will consider the below factors to determine the defendant's appropriateness for Home Detention:
    - 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, risk to third parties, or to 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 field site for review.
- c. The field site 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 maintains 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 the *Home Detention Investigation Form*.
- g. If the Court orders Home Detention for the defendant, the Court will issue a Home Detention Bail Mittimus. The mittimus should include the conditions

### **2. Department Referral Process**

All offenders who are eligible for field supervision by the Department of Corrections and have been incarcerated for a new offense or violation of probation will be reviewed by their assigned facility CSS 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 CSS will need to contact the assigned field CSS 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 flight risk;
  - 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; and
  - ix. If the proposed residence is subsidized housing, and if the defendant is authorized to reside there.
- b. If the case co-managers determine that the defendant would be appropriate for Home Detention status, the field CSS will notify the Community Corrections Program Supervisor (CCPS) of the recommendation for Home Detention placement.
- c. If the CCPS determines that the defendant is an appropriate candidate for Home Detention, they will notify the case co-managers and document the findings in electronic contact notes.
- d. 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; 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 authorized absences approved by the Court or the Department of Corrections;
- v. Explanation of the role of the Supervising Officer and supervision;
- vi. Entering an electronic case note outlining the current offense(s), and court approved absences.
- vii. Review, explanation, and signature by the defendant on the Furlough Agreement (see administrative directive #371.15, *Conditional Reentry*). The conditions of release issued by the court, and the information provided on the application will be added as special conditions of furlough.

**b. Supervision**

- i. The District Manager will designate a CCPS who will be responsible for the Home Detention Program for their 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 CCPS is responsible for:
  - a) Any Court hearings that are required;
  - b) Approving any changes to the 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 Administrative 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.
- vi. Out of State travel is permitted if it is approved by the court, or for medical emergencies. A travel permit is not required to authorize out of state travel.

**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 site. If it is not possible to take the defendant into custody at the field site, 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, *Furlough Violations*.

- 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 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.

### **7. 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 Reentry*.