

<b>State of Vermont Agency of Human Services Department of Corrections</b>	<b>Home Confinement Furlough</b>		<b>Page 1 of 7</b>
<b>Chapter Classification and Case Planning</b>	#371.27	<b>Superseded History:</b> Supersedes Interim Procedure dated 7/01/11; Interim Procedure dated 7/01/10.	
<b>Attachments, Forms &amp; Companion Documents:</b> 1. Home Confinement Intermediate Sanctions Report			
<b>Local Procedure(s) Required:</b> No <b>Applicability:</b> All staff (including contractors & volunteers) <b>Security Level:</b> "B"- Anyone may have access to this document.			
<b>Approved:</b>  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div data-bbox="168 890 630 921" style="width: 30%; border-top: 1px solid black;"> <b>Andrew A. Pallito, Commissioner</b> </div> <div data-bbox="704 856 928 921" style="width: 30%; text-align: center;"> <u><b>August 24, 2011</b></u>  <b>Date Signed</b> </div> <div data-bbox="1117 856 1341 921" style="width: 30%; text-align: center;"> <u><b>August 31, 2011</b></u>  <b>Date Effective</b> </div> </div>			

## PURPOSE

The purpose of this administrative directive is to provide direction for Department of Corrections staff as it pertains to Home Confinement Furlough.

## POLICY

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

## AUTHORITY

28 V.S.A. §§ 808b and 808d.

## REFERENCE

Department Policy #410 *Due Process*; Department Administrative Directives #371.15 *Conditional Re-Entry*, 371.16 *Graduated Sanctions*, #407.03 *Unauthorized Absence From Furlough or Conditional Reentry*, "A" #410.02 *Violations of FR/CR/PAF*, and #371.14 *Furlough Residence Approval*. Interim Procedure *Conditional Re-entry, Attachment A, Terms of Release*.

## DEFINITIONS

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' staff to believe the offender intends to absent him or herself from State custody or supervision.

Home Confinement: A status of furlough determined either by the court at sentencing or the commissioner of corrections that restricts the offender to a pre-approved place of residence continuously, except for authorized absences, enforced by appropriate means of supervision, including electronic monitoring and other conditions.

Intermediate Sanctions Report (ISR): A report written by the Probation & Parole Officer which details social history, key risk areas, and treatment planning of a person who has been arraigned and is anticipating a change of plea. The report outlines the conditions by which the person would be accepted into an alternative to incarceration program.

Intermediate Sanctions Program: A correctional program delivered to offenders who are in the legal status of Pre-approved Furlough or Supervised Community Sentence. In order to place an offender in an Intermediate Sanctions Program, the Court must refer the offender to the Department, in advance of sentencing, for screening to determine if they meet the eligibility requirements for the program requested.

Pre-Approved Furlough: 1) A legal status used for offenders who are determined eligible for Intermediate Sanctions Programs by the Department of Corrections and who are recommended for placement in these programs by the Court at sentencing. These furloughs are pre-approved by the Department after it conducts an eligibility screening prior to sentencing to determine if the offender meets the criteria established for the program to which the court refers them. For offenders who are pre-screened and determined eligible for the Corrections' program, and receive an appropriate sentence of incarceration, and further receive recommendation on the mittimus by the Court for placement on furlough, the Department will forgo the normal inmate classification rules and honor the Court's recommendation regarding placement in the community-based program by executing a furlough to the offender if they agree to the terms and conditions outlined in a furlough agreement.

## **PROCEDURAL GUIDELINES**

Home Confinement Furlough as ordered by the Court at sentencing is a pre-approved furlough status where the Court sentences the offender directly into the Intermediate Sanctions Program as an alternative to incarceration;

-or-

Home Confinement Furlough may also be granted by the authority of the Commissioner of Corrections as identified in the guidelines listed below.

Home Confinement Furlough restricts the offender to a pre-approved place of residence continuously, except for authorized absences, enforced by appropriate means of supervision, including electronic monitoring and other conditions imposed by the Court and/or the Department of Corrections.

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

- a. Prior to sentencing, the Court refers the offender to the Department of Corrections for eligibility determination and screening for Home Confinement Furlough as a sentencing option.
- b. Eligibility: In determining eligibility for an offender's placement on Home Confinement the Court will take into account all of the following:

- i. The maximum sentence cannot exceed 180 days;
    - Split sentences with 180 days or less to serve are eligible.
  - ii. The nature of the offense(s) with which the defendant is charged;
  - iii. Any prior convictions;
  - iv. Any history of violence;
  - v. Any medical and mental health needs;
  - vi. Any history of supervision;
  - vii. The risk of flight; and
  - viii. 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.
- c. Department staff will follow this review process for Court-requested Home Confinement referral:
- i. Complete the *Home Confinement Intermediate Sanctions Report (ISR) (Attachment 1)*;
  - ii. Complete a residence check in accordance with administrative directive #371.14 *Furlough Residence Approval*, to determine appropriateness for Home Confinement supervision and electronic monitoring suitability.
- d. In determining if the offender is eligible for Home Confinement the assigned PO will staff the case with a Correctional Program Supervisor to determine if this case can safely manage the offender's risk in the community. Staff will use the criteria below in determining if an offender should **not** be approved for Home Confinement:
- i. The proposed residence is not suitable for electronic monitoring;
  - ii. The proposed residence is not approved based on administrative directive #371.14;
  - iii. There is substantial credible evidence that a community placement will place a particular citizen and/or the public at risk of harm;
  - iv. That based on assessment of risk, which includes the use of validated tools and/or other behavioral indicators, that a community placement may pose a serious risk to the public.
- e. After determining the offender's eligibility for Home Confinement the Department will present to the Court a completed ISR with a furlough agreement signed by the offender, which sets forth the terms and conditions of the proposed furlough status.
- f. The Court sentences the offender to a term of imprisonment and specifically recommends on the mittimus that the offender be placed on Home Confinement Furlough.
- g. An offender on Home Confinement will be supervised as a Risk Management case for at least the duration of their furlough period unless the furlough is revoked and/or the sentence is satisfied.

## 2. Department Referral Process

- a. Eligibility:
  - i. All sentenced inmates who do not have written restrictions on the mittimus stating Home Confinement is not an option will be evaluated for appropriateness.
  - ii. Current conviction(s) cannot include a felony or any of the following misdemeanor offenses:
    - a) Cruelty to animals involving death or torture as defined in 13 VSA § 352(1) and (2);
    - b) Simple Assault as defined in 13 VSA § 1023(a)(1);

- c) Simple Assault with a deadly weapon as defined in 13 VSA § 1023(a)(2);
  - d) Simple Assault of a law enforcement officer, fire fighter, emergency medical personnel member, or health care worker while he or she is performing a lawful duty as defined in 13 VSA § 1023(a)(1);
  - e) Reckless Endangerment as defined in 13 VSA § 1025;
  - f) Simple Assault of a correctional officer as defined in 13 VSA § 1028a(a)(1);
  - g) Simple Assault of a correctional officer as defined in 13 VSA § 1028a(b);
  - h) Violation of an abuse prevention order, first offense as defined in 13 VSA § 1030;
  - i) Stalking as defined in 13 VSA § 1062;
  - j) Domestic Assault as defined in 13 VSA § 1042;
  - k) Cruelty to children over 10 years of age by one over 16 years of age as defined in 13 VSA 1304;
  - l) Cruelty by a person having custody of another as defined in 13 VSA 1305;
  - m) Abuse, neglect, or exploitation of a vulnerable adult as provided in 13 VSA §§ 1376-1381;
  - n) Hate-motivated crime as defined in 13 VSA § 1455, or burning of a cross or other religious symbol as defined in 13 VSA § 1456;
  - o) Voyeurism as defined in 13 VSA § 2605;
  - p) Prohibited acts as defined in 13 VSA § 2632;
  - q) Obscenity as defined in chapter 63 of 13 VSA;
  - r) Possession of child pornography as defined in 13 VSA § 2827;
  - s) Possession of a dangerous or deadly weapon in a school bus or school building as defined in 13 VSA § 4004(a);
  - t) Possession of a dangerous or deadly weapon on school property with intent to injure as defined in 13 VSA § 4004(b);
  - u) Possession of a firearm in court as defined in 13 VSA § 4016(b)(1);
  - v) Possession of a dangerous or deadly weapon in court as defined in 13 VSA § 4016(b)(2);
  - w) Failure to comply with the sex offender registry as defined in 13 VSA § 5409;
  - x) Careless or negligent operation of a motor vehicle resulting in serious bodily injury or death as defined in 23 VSA § 1091(b);
  - y) Driving under the influence of alcohol or drugs, second offense as defined in 23 VSA §§ 1201 and 1210(c);
  - z) Boating under the influence of alcohol or drugs second offense as defined in 23 VSA § 3323.
- iii. When the Facility Caseworker determines an inmate meets the criteria for Home Confinement, a referral will be made to the Probation Officer (PO) for review.
- iv. In determining eligibility for an offender's placement on Home Confinement as determined by the Department, the facility will take into account all of the following:
- a) The maximum sentence cannot exceed 180 days;
    - Split sentences with 180 days or less to serve are eligible.
  - b) The nature of the offense(s) with which the defendant is charged;
  - c) Any prior convictions;
  - d) Any history of violence;
  - e) Any medical and mental health needs;
  - f) Any history of supervision;
  - g) The risk of flight; and
  - h) 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.

- v. The PO will staff the case with a supervisor or manager for determination of placement on Home Confinement.
- b. If the staffing determines that placement on Home Confinement is acceptable, Department staff will complete a residence check in accordance with administrative directive #430.12 *Furlough Residence Approval*, as well as to determine appropriateness for Home Confinement supervision and electronic monitoring suitability; and
- c. After determining if the offender is eligible and the residence is appropriate for Home Confinement, the Department will establish a furlough agreement to be signed by the offender, which sets forth the terms and conditions of the proposed furlough status.
- d. The offender's residence must be within the area supervised by the field office.
- e. An offender on Home Confinement will be supervised as a Risk Management case for at least the duration of their furlough period unless the furlough is revoked and/or terminated.

### 3. Intake

District Managers will set up a process for the intake of offenders on Home Confinement Status which will include, but not be limited to, the following:

- a. Updating offender information (e.g., address, charges, etc.);
- b. Taking a digital photo;
- c. Staff explanation of, and offender signature on, the Department of Corrections furlough agreement;
- d. Explanation of electronic monitoring devices that will assist in the supervision of the offender;
- e. Acknowledgement of, and offender signature on, the electronic monitoring contract which is provided by the electronic monitoring vendor;
- f. Review of the approved schedule imposed by the Court and Department;
- g. Entering an electronic case note outlining the index offense(s), the status, and approved absences;
- h. Offender acknowledgement of, and signature on, conditions of supervision;
- i. Appropriate risk assessments;
- j. Conviction and Violation Summary (CVS);
- k. Any other mandated Departmental process such as Financial Agreement, ADA, DNA, Sex Offender Registry, Grievance orientation, etc.;
- l. Entering data into the electronic database for the above, if applicable.

### 4. Supervision

- a. The District Manager or designee will assign a Home Confinement case to either a Probation Officer (PO) or a Community Corrections Officer (CCO) depending on the level of case management services required for the offender. In general, cases requiring pre-approved absences such as for programming, educational services, and other risk-reduction needs, should be supervised by a PO. Cases requiring primarily risk control supervision should be supervised by a CCO.
- b. The assigned PO/CCO will have one (1) direct offender contact weekly. Other 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.

- c. Home Confinement furlougees will be on a set schedule as approved by the Court or Department. The furlougee is to remain at the pre-approved residence at all times except for scheduled and pre-approved absences. Changes to this schedule will be at the discretion of the supervising officer, and should be made sparingly and only out of necessity.

#### **5. Electronic Monitoring**

All Home Confinement furlougees will be monitored by GPS or other location-monitoring devices. If alcohol is a risk factor for the offender, alcohol monitoring devices will also be used.

#### **6. Response to Violating Behavior**

If through the course of supervision the offender has violated a condition of their *Home Confinement Agreement*, staff may:

- a. Issue a graduated sanction in accordance with administrative directive #371.16 *Graduated Sanctions*; or
- b. Return the offender to a correctional facility following the process as indicated in administrative directive #410.02 *Violations of FR/CR/PAF*.

#### **7. Escape**

If the offender is unable to be located, staff should place the offender on escape in accordance with administrative directive #407.03 *Unauthorized Absence from Furlough or Conditional Re-entry*.

### **TRAINING**

1. The Director of Community Corrections, Re-entry and Classification shall ensure that all District Managers are trained in this administrative directive and that they provide training on the use of electronic monitoring for all necessary field staff.
2. District Managers shall ensure that all appropriate staff are trained in this administrative directive.
3. The Classification Unit shall ensure that all appropriate staff are trained in the booking processes associated with this directive.

### **QUALITY ASSURANCE**

1. District Managers shall ensure that they have assigned staff resources for purpose of referral, supervision, and data tracking of offenders who are supervised on Home Confinement.
2. Central Office will:
  - a. Monitor the effectiveness of this administrative directive, with an emphasis on developing needed supports or training to assist staff.
  - b. Performance measures shall be developed to ensure compliance with this directive and legislative mandate (process and outcome). The objective of such measures is to assess the effectiveness of the Home Confinement Furlough in terms of reducing the need for future jail beds, saving money for the Agency and taxpayers, and lowering crime rates.

**ATTACHMENT 1 - SAMPLE**

**HOME CONFINEMENT  
Intermediate Sanctions Report**

**Offender Name:**

**Date:**

**Defense Attorney:**

**State's Attorney:**

**Offense(s):**

**Docket: #**

**Author of Report:**

**Personal:**

DOB: / /

Age:

POB:

Marital Status:

Number of Children:

**Residence:**

Proposed Residence:

Current Residence will allow for supervision with Electronic Monitoring:  Yes  No

Current Residence Appropriate for Home Confinement:  Yes  No

Does the placement of the defendant pose a risk to other residents:  Yes  No

Does the placement in this residence pose a specific identifiable risk to Corrections staff or others:  Yes  No

Comments:

**Orientation and Agreement:**

Has Been Oriented to Intermediate Sanctions Program of Home Confinement

Has Agreed to the Conditions of Home Confinement

Willing to Actively Participate in the Program

Comments:

**Recommendation:**

**Approved for Home Confinement**

**NOT approved for Home Confinement**

**Justification for not approving:**

\_\_\_\_\_  
Probation Officer/CCO Signature and Date

\_\_\_\_\_  
Supervisor Signature and Date