

Directive 423.01 Dls / Dui Mandatory Sentences

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF CORRECTIONS**

Directive: 423.01

Subject: Dls / Dui Mandatory Sentences
Effective Date: July 19, 1999 **Review and Re-Issue Date:**
Supersedes: NEW **APA Rule Number:**

Recommended for approval by:		Authorized By:	
_____	_____	_____	_____
Signature	Date	Signature	Date

1. Authority:

1.1. Title 23, Vermont Statutes Annotated, Chapter 9, Sections 674 (b) (1) (A), 674 (b) (2); Chapter 13, Sections 1210 (c), 28 Vermont Statutes Annotated, Sections 101 (1), 102 (b) (2).

2. Purpose:

2.1. The purpose of this directive is to establish guidelines for mandatory sentences for Driving License Suspended (DLS) and Driving Under the Influence of Intoxicating (DUI) liquor or other substances where a Judge has the option of ordering imprisonment or house arrest as a sentence.

3. Applicability/Accessibility

3.1. All individuals and groups affected by the operation of the department of corrections May 6, 1999 have a copy of this directive.

4. Directive

4.1. General Requirements

4.1.1 Title 23 V.S.A. section 674 requires a sentencing court to sentence offenders convicted of DLS (first offense) to either 48 hours incarceration or house arrest status under conditions approved by the Department. The choice of the option used is solely within the discretion of the sentencing court. For those offenders serving a sentence for DLS (second offense) the sentencing court may impose a sentence of at least 96 hours in a correctional facility or in a house arrest status as approved by the department.

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4.1.2 For the third offense, statute requires the sentencing court to sentence the offender to at least eight consecutive days in a correctional facility. The sentence may not be suspended, deferred, nor may the offender be placed on furlough after incarceration begins.

4.1.3 For the fourth and subsequent offenses, statute requires the sentencing court to sentence the offender to at least 16 consecutive days in a correctional facility. Again, "the sentence may not be suspended or deferred. Furlough shall not be granted in any case where the court has ordered the offender to a period of incarceration.

4.2. Procedural Requirements

4.2.1 The following intake/admission procedures will be used in these cases.

4.2.1.1 Community Correctional Service Centers (CCSC) shall supervise offenders sentenced under 23 V.S.A. chapter 9 when the judge has ordered that a sentence be served on house arrest. House arrest is the status to be utilized in cases where the mittimus states either "house arrest" or "correctional facility or house arrest". CCSCs shall develop and implement procedures that ensure house arrest status is available for such offenders. Normal intake procedures applicable to an offender being released on furlough shall be used. Procedures for supervision shall include, but not be limited to:

4.2.1.1.1 home confinement with restrictions on personal and/or telephone contacts; and/or

4.2.1.1.2 community restitution where the offender reports for community work service or restitution programs for a total of 48 hours, 96 hours., etc., and/or

4.2.1.1.3 other programmatic activities that may be broken up into time increments (but never to exceed 48 hours, 96 hours, etc.

CCSC's will develop local protocols to ensure that the sentencing court has maximum opportunity to define the use of a, b, c above.

4.2.2 Correctional facilities will process all offenders ordered to report to a regional correctional facility for service of sentences where the sentence mittimus clearly states that the offender is sentenced to imprisonment. Each offender must be incarcerated for the period stated in the mediums; e.g., 48 hours, 96 hours, etc.

4.3. Driving Under the Influence (DUI)

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4.3.1 Title 23 V. S. A., Section 1210 requires the sentencing court in cases where the offender is convicted of DUI, second offense, to ~ at least 48 consecutive hours imprisonment. This portion of the sentence may not be suspended or deferred or served as a supervised community sentence or period of furlough. The exact period of time (48 hours, 96 hours, etc.) must be served in a correctional facility. Regional correctional facilities shall promulgate procedures for notifying the defendant, the sentencing court, and other appropriate parties that the defendant must report to the regional correctional facility that normally services the sentencing court.

4.4. Overlapping Sentences

4.4.1 When a court has ordered a period of incarceration or house arrest, only that total period may be served by the offender in anyone of the two options ordered to be served. The offender may be required, for example, to serve 48 hours confined to his home. The department then may not order the offender to perform community work service in addition to the court-ordered period of home confinement as the 48-hour sentence would be exceeded.

5. Training Method

5.1.

6. Quality Assurance Processes

6.1.

7. Financial Impact:

8. References

9. Responsible Director and Draft Participants

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