

1 H.632

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; bail; home detention program

6 Statement of purpose: This bill proposes to require the court to request  
7 information from the department of corrections about a defendant's suitability  
8 for home detention prior to ruling on the defendant's request for home  
9 detention for lack of bail.

10 An act relating to pretrial home detention

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 13 V.S.A. § 7554b is amended to read:

13 § 7554b. HOME DETENTION PROGRAM

14 (a) Definition. As used in this section, "home detention" means a program  
15 of confinement and supervision that restricts a defendant to a preapproved  
16 residence continuously, except for authorized absences, and is enforced by  
17 appropriate means of surveillance and electronic monitoring by the department  
18 of corrections. The court may authorize scheduled absences such as work,  
19 school, or treatment. Any changes in the schedule shall be solely at the  
20 discretion of the department of corrections. A defendant who is on home

1 detention shall remain in the custody of the commissioner of the department of  
2 corrections with conditions set by the court.

3 (b) Procedure. The status of a defendant who is detained pretrial for more  
4 than seven days in a correctional facility for lack of bail may be reviewed by  
5 the court to determine whether the defendant is appropriate for home detention.  
6 The request for review may be made by either the department of corrections or  
7 the defendant. Prior to the review hearing, the court shall refer a defendant's  
8 request to the department of corrections for the purpose of determining the  
9 defendant's suitability for home detention, and the department shall report to  
10 the court within 10 days. After a hearing, the court may order that the  
11 defendant be released to the home detention program, providing that the court  
12 finds placing the defendant on home detention will reasonably assure his or her  
13 appearance in court when required and the proposed residence is appropriate  
14 for home detention. In making such a determination, the court shall consider:

15 (1) the nature of the offense with which the defendant is charged;

16 (2) the defendant's prior convictions, history of violence, medical and  
17 mental health needs, history of supervision, and risk of flight; and

18 (3) any risk or undue burden to other persons who reside at the proposed  
19 residence or risk to third parties or to public safety that may result from such  
20 placement.

1           (c) Failure to comply. The department of corrections may revoke a  
2           defendant's home detention status for an unauthorized absence or failure to  
3           comply with any other condition of the program and shall return the defendant  
4           to a correctional facility.

5           Sec. 2. EFFECTIVE DATE

6           This act shall take effect on passage.