

HOUSE BILL NO. HB0227

Home incarceration.

Sponsored by: Representative(s) Watt

A BILL

for

1 AN ACT relating to criminal procedure; providing for home
 2 incarceration of felons as specified; providing conditions
 3 for home incarceration; providing limitations on persons
 4 eligible for home incarceration; providing for rulemaking;
 5 providing for notification; and providing for an effective
 6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-13-1701 through 7-13-1706 are
 11 created to read:

12

ARTICLE 17

13

HOME INCARCERATION

14

15

16 **7-13-1701. Definitions; establishment of program.**

17

1 (a) As used in this article:

2

3 (i) "Approved monitoring device" means an
4 electronic device or apparatus which is capable of
5 recording, tracking or transmitting information as to the
6 prisoner's location or verifying the prisoner's presence or
7 nonpresence in the home, or both. The devices shall be
8 minimally intrusive. Devices shall not be used without the
9 prisoner's knowledge to record or transmit:

10

11 (A) Visual images other than the prisoner's
12 face;

13

14 (B) Oral or wire communications or any
15 auditory sound other than the prisoner's voice; or

16

17 (C) Information as to the prisoner's
18 activities while inside the home.

19

20 (ii) "Department" means the department of
21 corrections;

22

23 (iii) "Director" means the director of the
24 department of corrections;

1

2 (iv) "Home" means the temporary or permanent
3 residence of a prisoner consisting of the actual living
4 area. If more than one (1) residence or family is located
5 on a single piece of property, "home" does not include the
6 residence of any other person who is not part of the social
7 unit formed by the prisoner's immediate family. A
8 hospital, nursing care facility, hospice, group home,
9 transitional housing, residential treatment facility,
10 campus dormitory or boarding house may serve as a home
11 under this paragraph;

12

13 (v) "Home incarceration" means the use of the
14 person's home for the purposes of incarceration combined
15 with the use of a monitoring device approved by the
16 director to facilitate the prisoner's ability to
17 participate in programs approved as a condition of his
18 incarceration;

19

20 (vi) "Prisoner" means a person placed under
21 terms of home incarceration under this article;

22

23 (vii) "Violent felony" means murder,
24 manslaughter, kidnapping, robbery, aggravated assault,

1 aircraft hijacking, arson in the first or second degree,
2 aggravated burglary or any violation under W.S. 6-2-301
3 through 6-2-320.

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5 **7-13-1702. Home incarceration of certain felons;**
6 **eligibility; rules.**

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8 (a) Any felon who is charged to the custody of the
9 department and who has served two (2) years or one-half
10 (1/2) of his sentence, whichever is lesser, in a state
11 operated prison may, at the discretion of the director, be
12 eligible to serve the remainder of his sentence under the
13 terms of home incarceration using an approved monitoring
14 device, if the felon:

15

16 (i) Has not been convicted of, or pled guilty
17 to, a violent felony;

18

19 (ii) Has one (1) year or less to serve on his
20 sentence;

21

22 (iii) Has not been granted parole on the current
23 sentence or has not been returned to prison as a result of

1 a parole violation within the previous calendar year of
2 placement in home incarceration;

3

4 (iv) Has needs that may be adequately met in the
5 community where he will reside upon release; and

6

7 (v) Has voluntarily participated in the offender
8 reentry program or discharge planning process with the
9 department to address his:

10

11 (A) Education;

12

13 (B) Employment, technical and vocation
14 skills;

15

16 (C) Housing, medical, mental health and
17 substance abuse treatment needs; and

18

19 (D) Other needs identified within his
20 individualized case plan as formulated by the department.

21

22 (b) A prisoner who is placed under terms of home
23 incarceration under subsection (a) of this section shall
24 remain in the custody of the department until the

1 completion of his sentence. Any unauthorized departure
2 from the terms of home incarceration may be prosecuted as
3 an escape from detention and shall result in the prisoner
4 being returned to prison for the remaining term of his
5 sentence.

6

7 (c) Time spent in home incarceration under this
8 section shall be credited as time served on the sentence.

9

10 (d) Time spent in home incarceration shall be subject
11 to credit for inmate good time in the same amounts as time
12 served inside the institution and shall be subject to loss
13 or removal of the good time earned during the period of
14 home incarceration for violation of the terms of home
15 incarceration.

16

17 (e) The department shall promulgate rules and
18 regulations to implement the provisions of this article.

19

20 **7-13-1703. Conditions of home incarceration.**

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22 (a) The conditions of home incarceration granted
23 under W.S. 7-13-1702 may include the following, as well as
24 other conditions the department determines as appropriate:

1

2 (i) The prisoner shall be confined to his home
3 at all times except when:

4

5 (A) Undergoing available medical,
6 psychiatric, mental health or substance abuse treatment or
7 approved counseling and after care programs;

8

9 (B) Attending an approved educational or
10 vocational education institution or program or approved
11 work skills development program;

12

13 (C) Attending a regularly scheduled
14 religious service at an established place of worship; and

15

16 (D) Participating in an approved community
17 work service program.

18

19 (ii) Violation of paragraph (i) of this
20 subsection may subject the prisoner to prosecution under
21 W.S. 6-5-206;

22

23 (iii) The prisoner shall conform to a schedule
24 prepared by a designated employee of the department

1 specifically setting forth the times when he may be absent
2 from the home and the locations where he may be during
3 those times;

4

5 (iv) The prisoner shall not use or possess any
6 intoxicant or any substance in violation of article 5 of
7 the Wyoming Controlled Substances Act;

8

9 (v) The prisoner shall not commit another
10 offense during the period of time for which he is subject
11 to the conditions of home incarceration;

12

13 (vi) The prisoner shall not change the place of
14 home incarceration or the schedule without prior approval
15 of the department;

16

17 (vii) The prisoner shall maintain a telephone or
18 other approved monitoring device in the home or on his
19 person at all times;

20

21 (viii) Any other reasonable conditions set by
22 the department including:

23

24 (A) Restitution;

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2

(B) Supervision fees;

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(C) Court ordered child support; and

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(D) Any of the conditions imposed on persons on probation or conditional parole.

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(ix) A written and notarized consent agreement shall be filed with the department by every adult who will share the prisoner's home during the term of home incarceration; and

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14

(x) Any monetary condition shall be paid by the prisoner directly to the person or organization specified by the court in a written order, except that any supervision fees or monetary conditions owed to the department shall be paid directly to the department.

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7-13-1704. Ineligibility.

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No person being held under a felony detainer, warrant or process issued by some other jurisdiction shall be eligible

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1 for home incarceration. No person convicted of a violent
2 felony shall be eligible for home incarceration.

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4 **7-13-1705. Responsibilities of person held in home**
5 **incarceration.**

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7 (a) Any prisoner serving his sentence under
8 conditions of home incarceration shall be responsible for
9 his food, housing, clothing, transportation, medical care
10 expenses and payment of court ordered restitution and child
11 support and shall be eligible for government benefits to
12 the same extent as a person on probation, parole or
13 conditional discharge.

14

15 (b) Any prisoner serving his sentence under
16 conditions of home incarceration may be required to pay the
17 department for all or part of any monitoring equipment or
18 fees, substance abuse treatment programs or follow-up
19 treatment expenses, supervision costs or other costs while
20 assigned to the program. The department shall determine
21 whether the prisoner has the ability to pay all or part of
22 the fees or costs.

23

1 7-13-1706. Written notification; monthly list of home
2 incarcerated prisoners provided to law enforcement
3 agencies.

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5 (a) Prior to placement on home incarceration, the
6 department shall deliver a written notification to the
7 sheriff of the county and the chief law enforcement officer
8 of any incorporated city or town in which the prisoner is
9 to reside and be supervised under the program.

10

11 (b) The department shall provide all local and county
12 law enforcement agencies with a list of prisoners under
13 home incarceration in their jurisdiction. The list shall
14 be updated on the first working day of each calendar month
15 and shall include the following information:

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17 (i) The prisoner's place of home incarceration;

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19 (ii) The crime for which the prisoner was
20 convicted;

21

22 (iii) The date that the sentence of home
23 incarceration will be completed; and

24

1 (iv) The name, address and phone number of the
2 department employee supervising the prisoner during the
3 term of home incarceration.

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5 **Section 2.** This act is effective July 1, 2013.

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(END)