

HOME DETENTION ACT

SECTION 24-13-1510. Short title.

This article is known and may be cited as the “Home Detention Act”.

SECTION 24-13-1520. Definitions.

As used in this article:

(1) “Department” means, in the case of a juvenile offender, the Department of Juvenile Justice and, in the case of an adult offender, the Department of Probation, Parole and Pardon Services, the Department of Corrections, and any other law enforcement agency created by law.

(2) “Court” means a circuit, family, magistrate’s, or municipal court having criminal or juvenile jurisdiction to sentence an individual to incarceration for a violation of law, the Department of Probation, Parole and Pardon Services, the Board of Juvenile Parole, and the Department of Corrections.

(3) “Approved electronic monitoring device” means a device approved by the department which is primarily intended to record and transmit information as to the defendant’s presence or nonpresence in the home.

An approved electronic monitoring device may record or transmit: oral or wire communications or an auditory sound; visual images; or information regarding the offender’s activities while inside the offender’s home. These devices are subject to the required consent as set forth in Section 24-13-1550.

An approved electronic monitoring device may be used to record a conversation between the participant and the monitoring device, or the participant and the person supervising the participant, solely for the purpose of identification and not for the purpose of eavesdropping or conducting any other illegally intrusive monitoring.

(4) “Home detention” means the confinement of a person convicted or charged with a crime to his place of residence under the terms and conditions established by the department.

(5) “Participant” means an inmate/offender placed into an electronic monitoring program or into some other suitable program which provides supervision and/or monitoring in the community.

SECTION 24-13-1530. Correctional programs for which home detention may be substituted.

(A) Notwithstanding another provision of law which requires mandatory incarceration, electronic and nonelectronic home detention programs may be used as an alternative to incarceration for low risk, nonviolent adult and juvenile offenders as selected by the court if there is a home detention program available in the jurisdiction. Applications by offenders for home detention may be made to the court as an alternative to the following correctional programs:

- (1) pretrial or preadjudicatory detention;
- (2) probation (intensive supervision);
- (3) community corrections (diversion);
- (4) parole (early release);
- (5) work release;
- (6) institutional furlough;
- (7) jail diversion; or
- (8) shock incarceration.

(B) Local governments also may establish by ordinance the same alternative to incarceration for persons who are awaiting trial and for offenders whose sentences do not place them in the custody of the Department of Corrections. Counties and municipalities may develop home detention programs according to the Minimum Standards for Local Detention Facilities in South Carolina which are established pursuant to Section 24-9-20 and enforced pursuant to Section 24-9-30.

SECTION 24-13-1540. Promulgation of regulations; approved absences from home.

If a department desires to implement a home detention program it must promulgate regulations that prescribe reasonable guidelines under which a home detention program may operate. These regulations must require that the participant remain within the interior premises or within the property boundaries of his residence at all times during the hours designated by the department. Approved absences from the home for a participant may include:

- (1) hours in employment approved by the department or traveling to or from approved employment;
- (2) time seeking employment approved for the participant by the department;
- (3) medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the participant by the department;
- (4) attendance at an educational institution or a program approved for the participant by the department;
- (5) attendance at a regularly scheduled religious service at a place of worship; or

(6) participation in a community work release or community service program approved by the department.

SECTION 24-13-1550. Verification.

The participant shall admit a person or agent designated by the department into his residence at any time for purposes of verifying the participant's compliance with the conditions of his detention.

The participant shall make the necessary arrangements to allow for a person designated by the department to visit the participant's place of education or employment at any time, upon approval of the educational institution or employer, for the purpose of verifying the participant's compliance with the conditions of his detention.

SECTION 24-13-1560. Use of electronic monitoring device.

The participant shall use an approved electronic monitoring device if instructed by the department at all times to verify his compliance with the conditions of his detention and shall maintain a monitoring device in his home or on his person.

SECTION 24-13-1570. Approval required for change in residence or schedule; notice that violation of detention is a crime; revocation; input of victim regarding eligibility for home detention.

(A) The participant shall obtain approval from the department before he changes his residence or the schedule described in Section 24-13-1540.

(B) Notice must be given to the participant by the department that violation of the order for home detention subjects the participant to prosecution for the crime of escape as a misdemeanor, that commission of another crime revokes the order for home detention, and that if there is a violation or commission, the court shall sentence him to imprisonment.

(C) The participant shall abide by other conditions set by the department.

(D) The victim of the participant's crime, or his immediate family, must be provided the opportunity of oral or written input and comment to the department or court, or both, regarding the participant's home detention sentence.

SECTION 24-13-1580. Necessity of written consent to electronic home detention; other residents' knowledge.

Before entering an order for commitment for electronic home detention, the court shall inform the participant and other persons residing in the home of the nature and extent of the approved electronic monitoring devices by:

- (1) securing the written consent of the participant in the program to comply with the regulations of the program as stipulated in Section 24-13-1540 and the requirements of this article;
- (2) securing, upon request of the department, the written consent of other adult persons residing in the home of the participant at the time an order or commitment for electronic home detention is entered and acknowledgment that they understand the nature and extent of approved electronic monitoring devices; and
- (3) insuring that the approved electronic devices are minimally intrusive upon the privacy of the participant and other persons residing in the home while remaining in compliance with Sections 24-13-1550 and 24-13-1560.

SECTION 24-13-1590. Article not applicable to certain controlled substance offenders; probation and parole authority not diminished.

Nothing in this article:

- (1) applies to a person, regardless of age, who violates, or is awaiting trial on charges of violating, the illicit narcotic drugs and controlled substances laws of this State which are classified as Class A, B, or C felonies or which are classified as an exempt offense by Section 16-1-10(D) and provide for a maximum term of imprisonment of twenty years or more; or
- (2) diminishes the lawful authority of the courts of this State, the Department of Juvenile Justice, or the Department of Probation, Parole, and Pardon Services to regulate or impose conditions for probation, parole, or community supervision.