

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

608D0235

HOUSE BILL NO. 1107

Introduced by: Representatives Volesky, Davis, Hanson, Lucas, Nachtigal, and Waltman and
Senators Kloucek and Lawler

1 FOR AN ACT ENTITLED, An Act to permit the use of home detention programs for certain
2 nonviolent offenders.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Home detention is an alternative correctional sentence or term of probation or
5 parole wherein a nonviolent offender is allowed to serve that sentence or term of probation or
6 parole, or a portion thereof, within the offender's home, other home-like environment, or other
7 approved residence. Such sentence or term of probation or parole shall require the offender to
8 remain within the approved residence at all times except for approved employment, court-
9 ordered activities, and medical needs. No offender convicted of aggravated assault, child abuse,
10 kidnaping, manslaughter in the first degree, murder, rape, robbery, felony sexual contact as
11 defined in §§ 22-22-7 and 22-22-29.1, vehicular homicide, riot, arson, burglary in the first
12 degree, commission of a crime while armed, possession of a firearm by a felon, any other felony
13 in the commission of which the perpetrator used force, or was armed with a dangerous weapon,
14 or used any explosive or destructive device, or any drug-related offenses, except for the offense
15 possession of marijuana, is eligible for participation in any home detention program.

16 Section 2. A judge may sentence any eligible nonviolent offender, pursuant to section 1 of

1 this Act, to a home detention program operated pursuant to a contractual agreement with the
2 Department of Corrections for all or part of the offender's sentence.

3 Section 3. Prior to sentencing any offender directly to a home detention program, the judge
4 shall consider the following factors:

- 5 (1) The safety of victims and witnesses of the offender's criminal acts;
- 6 (2) The safety of the public-at-large;
- 7 (3) The seriousness of any offense committed by the offender together with any
8 information relating to the original charge against the offender;
- 9 (4) The offender's prior criminal record; and
- 10 (5) The ability of the offender to pay for the costs of home detention and restitution to
11 victims.

12 Section 4. Any offender sentenced to a home detention program who fails to carry out the
13 terms and conditions prescribed by the court shall be returned to the court and resentenced.

14 Section 5. A judge may require any eligible nonviolent offender, as a condition of probation,
15 to serve an appropriate period of time in a home detention program operated directly by the
16 Department of Corrections, or in a home detention program operated pursuant to a contractual
17 agreement between the Department of Corrections and a local unit of government or private
18 entity.

19 Section 6. The Board of Pardons and Paroles may require any eligible nonviolent offender,
20 as a condition of parole or modified parole, to serve an appropriated period of time in a home
21 detention program operated by the Department of Corrections, or in a home detention program
22 operated pursuant to a contractual agreement between the Department of Corrections and a local
23 unit of government or private entity. The Board of Pardons and Paroles shall use the criteria to
24 determine the eligibility of candidates for home detention that are provided in section 1 of this
25 Act.

1 Section 7. The Department of Corrections may contract with local governmental entities and
2 private entities to develop, administer, and operate home detention programs which may be
3 utilized by the court or by the Board of Pardons and Paroles.

4 Section 8. Any home detention program shall include the following:

5 (1) Supervision of the offender by personal monitoring by a home detention officer
6 employed by the entity operating the home detention program;

7 (2) Supervision of the offender through monitoring by electronic devices which are
8 capable of detecting and reporting the offender's presence or absence at such
9 offender's approved residence, place of employment, or other court-approved activity;

10 (3) Access for the offender to attend any court-ordered counseling, substance abuse
11 treatment, vocational rehabilitation, training, or education; and

12 (4) Employment under which the offender shall pay for all or a reasonable portion of the
13 costs of monitoring and other costs specified by the court or Board of Pardons and
14 Paroles.

15 Section 9. If an offender fails to remain within the extended limits of a home detention
16 program as ordered by the court, the offender has escaped from custody and is guilty of a
17 violation of § 22-11A-2. An offender on parole who fails to remain within the limits of a home
18 detention program is in violation of a parole pursuant to § 24-15-24.