

The State of South Carolina



Office of the Attorney General

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June 3, 1991

The Honorable Luke N. Brown, Jr.
Judge, Fourteenth Judicial Circuit
P. O. Box 879
Ridgeland, South Carolina 29936

Dear Judge Brown:

A letter to this Office on your behalf requested an opinion with regard to the electronic monitoring "in house arrest" system. It was stated that it was your opinion that such a sentence would be a good alternative, especially with regard to weekend incarceration, and you would like to use such system as much as possible for non-violent cases.

Sections 24-13-1510 et seq. of the Code, the "Home Detention Act", provide for home detention and electronic monitoring programs for certain criminal offenders. Section 24-13-1530 states

Notwithstanding any 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, provided 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);

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- (5) work release;
- (6) institutional furlough;
- (7) jail diversion; or
- (8) shock incarceration.

As referenced, such programs are available for "low risk, nonviolent adult and juvenile offenders as selected by the court." Section 24-13-1590 specifies that such programs are not available "... to a person, regardless of age, who violates the illicit narcotic drugs and controlled substances laws of this State" Moreover, Section 24-13-1530 emphasizes that home detention programs may be utilized provided such a program is available in a particular jurisdiction. Pursuant to Section 24-13-1540, before such a program may be implemented, regulations must be promulgated which will prescribe guidelines for a home detention program. I have been informed by individuals familiar with these statutes that presently no home detention programs have been put into operation.

While this Office opposes early releases of prisoners generally, as to your particular question regarding utilizing such a program for weekend offenders, reference must be made to the guidelines of Section 24-13-1530 that such sentencing option is available for "low risk, nonviolent adult and juvenile offenders as selected by the court." It would be inappropriate for this Office to reference specific types of situations and circumstances where this sentence is available inasmuch as that would be within the discretion of the judiciary.

With kind regards, I am


Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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