

1  
2  
3  
4  
5  
6  
7  
8  
9  
  
10  
11  
  
12  
13  
14  
15  
16  
17  
18  
19  
20

H.773

Introduced by Representative Burditt of West Rutland

Referred to Committee on

Date:

Subject: Crimes; criminal procedure; conditions of release

Statement of purpose of bill as introduced: This bill proposes to add the number of offenses with which a defendant is charged and the recent history of pending charges against a defendant as explicit factors a court considers in imposing conditions of release.

An act relating to how a defendant's criminal record is considered in imposing conditions of release

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

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

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at ~~his or her~~ the person's appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by

1 the judicial officer unless the judicial officer determines that such a release will  
2 not reasonably mitigate the risk of flight from prosecution as required. In  
3 determining whether the defendant presents a risk of flight from prosecution,  
4 the judicial officer shall consider, in addition to any other factors, the  
5 seriousness of the offense charged and the number of offenses with which the  
6 person is charged. If the judicial officer determines that the defendant presents  
7 a risk of flight from prosecution, the officer shall, either in lieu of or in  
8 addition to the methods of release in this section, impose the least restrictive of  
9 the following conditions or the least restrictive combination of the following  
10 conditions that will reasonably mitigate the risk of flight of the defendant as  
11 required:

12 \* \* \*

13 (2) If the judicial officer determines that conditions of release imposed  
14 to mitigate the risk of flight from prosecution will not reasonably protect the  
15 public, the judicial officer may impose, in addition, the least restrictive of the  
16 following conditions or the least restrictive combination of the following  
17 conditions that will reasonably ensure protection of the public:

18 (A) Place the defendant in the custody of a designated person or  
19 organization agreeing to supervise ~~him or her~~ the defendant if the defendant is  
20 charged with an offense that is not a nonviolent misdemeanor or nonviolent  
21 felony as defined in 28 V.S.A. § 301.

1           (B) Place restrictions on the travel, association, or place of abode of  
2 the defendant during the period of release.

3           (C) Require the defendant to participate in an alcohol or drug  
4 treatment program. The judicial officer shall take into consideration the  
5 defendant's ability to comply with an order of treatment and the availability of  
6 treatment resources.

7           (D) Impose any other condition found reasonably necessary to  
8 protect the public, except that a physically restrictive condition may only be  
9 imposed in extraordinary circumstances.

10          (E) Suspend the officer's duties in whole or in part if the defendant is  
11 a State, county, or municipal officer charged with violating section 2537 of this  
12 title and the court finds that it is necessary to protect the public.

13          (F) [Repealed.]

14          (3) A judicial officer may order that a defendant not harass or contact or  
15 cause to be harassed or contacted a victim or potential witness. This order  
16 shall take effect immediately, regardless of whether the defendant is  
17 incarcerated or released.

18          (b) Judicial considerations in imposing conditions of release. In  
19 determining which conditions of release to impose:

20           (1) In subdivision (a)(1) of this section, the judicial officer, on the basis  
21 of available information, shall take into account the nature and circumstances

1 of the offense charged; the weight of the evidence against the accused; the  
2 accused's employment; financial resources, including the accused's ability to  
3 post bail; the accused's character and mental condition; the accused's length of  
4 residence in the community; and the accused's record of appearance at court  
5 proceedings or of flight ~~to avoid~~ from prosecution or failure to appear at court  
6 proceedings.

7 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis  
8 of available information, shall take into account the nature and circumstances  
9 of the offense charged; the number of offenses with which the accused is  
10 charged; the weight of the evidence against the accused; ~~and~~ the accused's  
11 family ties, employment, character and mental condition, length of residence in  
12 the community, record of convictions, and record of appearance at court  
13 proceedings or of flight ~~to avoid~~ from prosecution or failure to appear at court  
14 proceedings; the recent history of pending charges against the accused; and  
15 whether the accused is subject to release on personal recognizance or subject to  
16 conditions of release prior to trial, sentencing, or appeal in another case  
17 pending before federal or state court; whether the accused is on probation,  
18 parole, furlough, or some other form of community supervision in another case  
19 adjudicated before a federal or state court; and whether the accused is currently  
20 compliant with any standing court orders. Recent history of actual violence or

1 threats of violence may be considered by the judicial officer as bearing on the  
2 character and mental condition of the accused.

3 \* \* \*

4 Sec 2. 13 V.S.A. § 7576 is amended to read:

5 § 7576. DEFINITIONS

6 As used in this chapter:

7 \* \* \*

8 (9) “Flight from prosecution” means any action or behavior undertaken  
9 by a person charged with a criminal offense to avoid court proceedings,  
10 including failures to appear at court hearings.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on July 1, 2024.