

1 S.195

2 Introduced by Senators Collamore, Hardy, Sears and Weeks

3 Referred to Committee on Judiciary

4 Date: January 3, 2024

5 Subject: Crimes; criminal procedure; conditions of release

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

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

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

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

14 § 7554. RELEASE PRIOR TO TRIAL

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

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

1 ~~by the judicial officer unless the judicial officer determines that such a release~~
2 will 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 will not reasonably protect the public, the judicial
15 officer may impose, in addition, the least restrictive of the following
16 conditions or the least restrictive combination of the following conditions
17 listed in this subdivision that will reasonably ensure protection of the public.
18 The number of offenses with which the accused is charged or the recent history
19 of pending charges against the accused, or both, shall be considered by the
20 judicial officer as bearing on the determination of any conditions or
21 combination of conditions that will reasonably ensure protection of the public.

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

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

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

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

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

17 (F) [Repealed.]

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

1 ~~(b) Judicial considerations in imposing conditions of release. In~~

2 determining which conditions of release to impose:

3 (1) In subdivision (a)(1) of this section, the judicial officer, on the basis
4 of available information, shall take into account the nature and circumstances
5 of the offense charged; the weight of the evidence against the accused; the
6 accused's employment; financial resources, including the accused's ability to
7 post bail; the accused's character and mental condition; the accused's length of
8 residence in the community; and the accused's record of appearance at court
9 proceedings or of flight to avoid prosecution or failure to appear at court
10 proceedings.

11 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis
12 of available information, shall take into account the nature and circumstances
13 of the offense charged; the weight of the evidence against the accused; and the
14 accused's family ties, employment, character and mental condition, length of
15 residence in the community, record of convictions, and record of appearance at
16 court proceedings or of flight to avoid prosecution or failure to appear at court
17 proceedings. Recent history of actual violence or threats of violence may be
18 considered by the judicial officer as bearing on the character and mental
19 condition of the accused.

20

1 ~~Sec. 2. EFFECTIVE DATE~~

2 ~~This act shall take effect on July 1, 2024.~~

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00. The \$200.00 limit shall not apply to an offense allegedly committed by a defendant who has been released on personal recognizance or conditions of release pending trial for another offense.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

~~Sec. 2. 19 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 the judicial officer unless the judicial officer determines that such a release will not reasonably mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the judicial officer determines that the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably mitigate the risk of flight of the defendant as required:~~

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

~~(B) Place restrictions on the travel or association of the defendant during the period of release.~~

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

~~(D) Upon consideration of the defendant's financial means, require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.~~

~~(E) Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of ~~cash in lieu thereof~~.~~

~~(F) Impose any other condition found reasonably necessary to mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.~~

~~(G) [Repealed.]~~

~~(H) Place the defendant in the electronic monitoring program pursuant to section 7554f of this title.~~

~~(I) Place the defendant in the home detention program pursuant to section 7554b of this title.~~

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

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

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

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

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

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

~~(F) [Repealed.]~~

~~(G) Place the defendant in the electronic monitoring program pursuant to section 7554f of this title.~~

~~(H) Place the defendant in the home detention program pursuant to section 7554b of this title.~~

~~(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order~~

~~shall take effect immediately, regardless of whether the defendant is incarcerated or released.~~

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

~~(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.~~

~~(2) In subdivision (a)(2) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the number of offenses with which the accused is charged; whether the accused is subject to release on personal recognizance or subject to conditions of release related to protecting the public in another case pending before federal or state court; whether the accused is subject to conditions related to protecting the public for probation, parole, furlough, or another form of community supervision; whether the accused is currently compliant with any court orders; and the accused's family ties, employment, character and mental condition, length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.~~

~~(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise ~~him or her~~ the person that a warrant for ~~his or her~~ the person's arrest will may be issued immediately upon any such violation.~~

~~(d) Review of conditions.~~

~~(1) A person for whom conditions of release are imposed and who is detained as a result of ~~his or her~~ the person's inability to meet the conditions of release or who is ordered released on a condition that ~~he or she~~ the person return to custody after specified hours, or the State, following a material ~~change in circumstances,~~ shall, within 48 hours following application, be~~

~~entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.~~

~~(2) A person for whom conditions of release are imposed shall, within five working days following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.~~

~~(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release, provided that the provisions of subsection (d) of this section shall apply.~~

~~(f) Definition. The term "judicial officer" as used in this section and section 7556 of this title shall ~~mean~~ means a clerk of a Superior Court or a Superior Court judge.~~

~~(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.~~

~~(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security if such disposition is authorized by the court.~~

~~(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:~~

~~(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.~~

~~(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.~~

~~(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.~~

~~(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours following the juvenile's arrest.~~

~~Sec. 3. 13 V.S.A. § 7554b is amended to read:~~

~~§ 7554b. HOME DETENTION PROGRAM~~

~~(a) Definition. As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections, including the use of passive electronic monitoring. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.~~

~~(b) Procedure. At the request of the court, the Department of Corrections, the prosecutor, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for inability to pay bail after bail has been set by the court, or the status of a defendant who has allegedly violated conditions of release or of personal recognizance, may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required mitigate the defendant's risk of flight and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:~~

~~(1) the nature of the offense with which the defendant is charged;~~

~~(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight, and~~

~~(3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.~~

~~(c) Failure to comply. The Department of Corrections may ~~revoke~~ report a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the Program and shall return the defendant to a correctional facility to the prosecutor and the defendant, provided that a defendant's failure to comply with any condition of the Program for a reason other than fault on the part of the defendant shall not be reportable. To address a reported violation, the prosecutor may initiate:~~

~~(1) a review of conditions pursuant to section 7554 of this title;~~

~~(2) a violation of conditions proceeding pursuant to section 7554e of this title;~~

~~(3) a prosecution for contempt pursuant to section 7559 of this title; or~~

~~(4) a bail revocation hearing pursuant to section 7575 of this title.~~

~~(d) Credit for time served. A defendant shall receive credit for a sentence of imprisonment for time served in the Home Detention Program.~~

~~(e) Program support. The Department may support the operation of the Program through grants of financial assistance to, or contracts for services with, any public or nonprofit entity that meets the Department's requirements.~~

~~Sec. 4. 13 V.S.A. § 7554e is added to read:~~

~~§ 7554e. VIOLATIONS OF CONDITIONS OF RELEASE~~

~~(a) Procedure.~~

~~(1) The court may determine that a condition of release was violated only upon notice to the defendant and a hearing.~~

~~(2) Whenever a defendant is alleged to have violated a condition of release ordered by a court pursuant to section 7554 of this title, the defendant may be arrested or cited in accordance with Rules 3 or 18 of the Vermont Rules of Criminal Procedure to appear before the court in which the conditions of release were ordered.~~

~~(3) A judicial officer may issue a warrant for the arrest of a defendant charged with violating a condition of release and the defendant shall appear before the judicial officer.~~

~~(4) The defendant alleged to have violated a condition of release may appear before the judicial officer not later than the next business day following the arrest or citation. At this appearance, the judicial officer may review and~~

~~modify the defendant's conditions of release pursuant to section 7554 of this title. The prosecutor may also request that the judicial officer schedule a summary hearing in accordance with subsection (b) of this section or elect to commence a prosecution pursuant to section 7559 of this title.~~

~~(b) Hearing.~~

~~(1) Upon request, the judicial officer may schedule a summary hearing to determine if the defendant violated a condition of release.~~

~~(2) The State shall have the burden of proving a violation of conditions of release by a preponderance of the evidence.~~

~~(3) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law unless the judicial officer determines that live testimony is necessary.~~

~~(4) The judicial officer shall issue an appropriate order addressing the alleged violation pursuant to subsection (c) of this section.~~

~~(c) Disposition of violations.~~

~~(1) In determining that a condition of release was violated, the judicial officer shall consider any of the following:~~

~~(A) whether the defendant violated a condition of release that does not otherwise constitute an offense under federal or State law;~~

~~(B) whether the defendant violated a condition of release that also constitutes an offense under federal or State law;~~

~~(C) the nature of the underlying offense with which the defendant is charged;~~

~~(D) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and~~

~~(E) any risk that the defendant poses to the public.~~

~~(2) Upon a finding that the person violated a condition of release, the judicial officer shall impose the least restrictive condition or combination of conditions to reasonably ensure the defendant's court appearances, to mitigate the defendant's risk of flight from prosecution, or to reasonably protect the public. Such conditions include:~~

~~(A) imposing any condition or combination of conditions pursuant to section 7554 of this title; or~~

~~(B) placing the defendant under the supervision of the pre-trial supervision program pursuant to section 7554g of this title.~~

~~(2) If the defendant violated a condition of release that also constitutes an offense under federal or State law, a prosecutor may pursue bail revocation pursuant to section 7575 of this title.~~

~~(d) Exclusive remedy; prosecution for contempt. A proceeding pursuant to this section or a prosecution pursuant to section 7559 of this title shall be a prosecutor's exclusive remedy to modify conditions of release as a result of an alleged violation. Nothing in this section shall be construed to modify or limit a judicial officer's ability to exercise the officer's own authority to address contempt or to modify or limit a prosecutor's ability to commence a prosecution for contempt for any reason other than a violation of a condition of release.~~

Sec. 5. 13 V.S.A. § 7554f is added to read:

§ 7554f. ELECTRONIC MONITORING PROGRAM

~~(a) Intent. It is the intent of the General Assembly that the electronic monitoring program assist in ensuring a defendant's compliance with conditions of release, mitigating a defendant's risk of flight, or reasonably protecting the public.~~

~~(b) Program and administration.~~

~~(1) The Department of Corrections shall expand and manage an electronic monitoring program for the purpose of supervising persons ordered to be under electronic monitoring as a condition of release, in addition to or in lieu of the imposition of bail pursuant to section 7554 of this title, or placed on home detention pursuant to section 7554b of this title.~~

~~(2) The Department may support the Program's monitoring operations through grants of financial assistance to, or contracts for services with, any public or nonprofit entity that meets the Department's requirements.~~

~~(c) Procedure. At the request of the court, the prosecutor, or the defendant, the court may determine whether a defendant is appropriate for electronic monitoring. After a hearing, the court may order that the defendant be placed under electronic monitoring, provided that the court finds that placing the defendant under electronic monitoring will assist in ensuring a defendant's compliance with conditions of release, mitigating a defendant's risk of flight, or reasonably protecting the public. In making such a determination, the court shall consider:~~

~~(1) the nature of the offense with which the defendant is charged;~~

~~(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, risk of flight, and history of compliance with court orders; and~~

~~(3) any risk or undue burden to other persons who reside at the proposed residence, risk to third parties, or risk to public safety that may result from the placement.~~

~~(d) Policies. The Department of Corrections shall establish a written policies and procedures manual for the electronic monitoring program to be used by the Department, any contractors or grantees that the Department engages with to assist in operating the program, and the courts.~~

~~(e) Failure to comply. The Department of Corrections may report a violation of the defendant's electronic monitoring conditions to the prosecutor and the defendant, provided that a defendant's failure to comply with any condition of the Program for a reason other than fault on the part of the defendant shall not be reportable. To address a reported violation, the prosecutor may initiate:~~

~~(1) a review of conditions pursuant to section 7554 of this title;~~

~~(2) a violation of conditions proceeding pursuant to section 7554e of this title;~~

~~(3) a prosecution for contempt pursuant to section 7559 of this title; or~~

~~(4) a bail revocation hearing pursuant to section 7575 of this title.~~

~~Sec. 6. 13 V.S.A. § 7554g is added to read:~~

~~§ 7554g. PRE-TRIAL SUPERVISION PROGRAM~~

~~(a) Purpose. The purpose of the Pre-Trial Supervision Program is to assist eligible people through the use of evidence-based strategies to improve pre-trial compliance with conditions of release, to coordinate and support the provision of pre-trial services when appropriate, to ensure attendance at court appearances, and to decrease the potential to recidivate while awaiting trial.~~

~~(b) Definition. As used in this section, "Absconding" has the same meaning as defined in 28 V.S.A. § 722(1).~~

~~(c) Pre-trial supervision.~~

~~(1) The Pre-Trial Supervision Program shall supervise defendants who violate conditions of release pursuant to section 7554e or 7559 of this title, have not fewer than five pending dockets, pose a risk of nonappearance at court proceedings, pose a risk of flight from prosecution, or pose a risk to public safety.~~

~~(2) The Department of Corrections shall be responsible for supervising defendants who are placed in the Pre-Trial Supervision Program. The Department shall assign a pre-trial supervisor to monitor defendants in~~

~~designated region of Vermont and help coordinate any pre-trial services needed by the defendant. The Department shall determine the appropriate level of supervision based on evidence-based screenings of those defendants eligible to be placed in the Program. The Department's supervision methods may include use of:~~

- ~~(A) the Department's telephone monitoring system;~~
- ~~(B) telephonic meetings with a pre-trial supervisor;~~
- ~~(C) in person meetings with a pre-trial supervisor; or~~
- ~~(D) any other means of contact deemed appropriate.~~

~~(3) If the court determines that the defendant is appropriate for the Pre-Trial Supervision Program, the court shall issue an order placing the defendant in the Program and setting the defendant's conditions of supervision.~~

~~(d) Procedure.~~

~~(1) At the request of the court, the prosecutor, or the defendant, the defendant may be reviewed by the court to determine whether the defendant is appropriate for pre-trial supervision. The review shall be scheduled upon the court's receipt of a report from the Department of Corrections determining that the defendant is eligible for pre-trial supervision. A defendant held without bail pursuant to section 7553 or 7553a shall not be eligible for pre-trial supervision.~~

~~(2) A defendant is eligible for pre-trial supervision if the person:~~

- ~~(A) has violated conditions of release pursuant to section 7554e or 7559 of this title;~~
- ~~(B) has not fewer than five pending court dockets;~~
- ~~(C) poses a risk of nonappearance at court proceedings;~~
- ~~(D) poses a risk of flight from prosecution; or~~
- ~~(E) poses a risk to public safety.~~

~~(3) After a hearing, the court may order that the defendant be released to the Pre-Trial Supervision Program, provided that the court finds placing the defendant under pre-trial supervision will reasonably ensure the person's appearance in court when required, mitigate the person's risk of flight, or reasonable ensure protection of the public. In making such a determination, the court shall consider any of the following:~~

- ~~(A) the nature of the violation of conditions of release pursuant to section 7554e or 7559 of this title;~~

~~(B) the nature and circumstances of the underlying offense with which the defendant is charged;~~

~~(C) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; or~~

~~(D) any other factors that the court deems appropriate.~~

~~(e) Compliance and review.~~

~~(1) Pre-trial supervisors shall notify the prosecutor and use reasonable efforts to notify the defendant of any violations of Program supervision requirements committed by the defendant.~~

~~(A) Upon submission of the pre-trial supervisor's sworn affidavit by the prosecutor, the court may issue a warrant for the arrest of a defendant who fails to report to the pre-trial supervisor, commits multiple violations of supervision requirements, or is suspected of absconding.~~

~~(B) The defendant may appear before the court not later than the next business day following the arrest to modify the defendant's conditions.~~

~~(2) At the request of the court, the prosecutor, or the defendant, a defendant's compliance with pre-trial supervision conditions may be reviewed by the court. The court may issue an appropriate order in accordance with the following:~~

~~(A) A defendant who complies with all conditions of the Pre-Trial Supervision Program for not less than 90 days may receive a reduction in supervision level or may be removed from the Program altogether.~~

~~(B) A defendant who violates a condition of the Pre-Trial Supervision Program may receive an increase in supervision level or other sanction permitted by law.~~

~~(f) Contingent on funding. The Pre-Trial Supervision Program established in this section shall operate only to the extent funds are appropriated for its operation.~~

Sec. 7. 13 V.S.A. § 7575 is amended to read:

§ 7575. REVOCATION OF THE RIGHT TO BAIL

~~(a) Revocation. The right to bail may be revoked entirely if the judicial officer finds the accused has:~~

~~(1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or~~

~~(2) repeatedly violated conditions of release in a manner that ~~impedes~~ disrupts the prosecution of the accused; or~~

~~(3) violated a condition or conditions of release that constitute a threat to the integrity of the judicial system; or~~

~~(4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or~~

~~(5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense similar to the underlying charge, for which, after hearing, probable cause is found.~~

~~(b) Hearing required; burden of proof. The court may revoke bail only after notice to the defendant and a hearing. The State shall have the burden of proving by a preponderance of the evidence that the accused engaged in the conduct identified in subdivisions (a)(1)–(5) of this section.~~

~~(c) Evidence. To meet its burden, the State shall present substantial, admissible evidence sufficient to fairly and reasonably convince a fact finder beyond a reasonable doubt that the accused is guilty. Such evidence may be shown through affidavits and sworn statements, provided the defendant has the opportunity to present direct evidence at a hearing. Evidence only showing that the accused may endanger the public is insufficient to meet the burden pursuant to this section.~~

~~(d) Orders. A court may only revoke bail upon a finding that a legitimate and compelling State interest exists to revoke bail. The court shall not revoke bail based on a breach of conditions of release alone or solely because the accused may endanger the public. In any order revoking bail, the court shall make a specific finding that the State met its burden pursuant to subsection (c) of this section.~~

~~Sec. 8. 13 V.S.A. § 7576 is amended to read:~~

~~§ 7576. DEFINITIONS~~

~~As used in this chapter:~~

~~* * *~~

~~(9) “Flight from prosecution” means any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings, including noncompliance with court orders and a person’s failure to appear at court hearings.~~

~~Sec. 9. 13 V.S.A. § 7030 is amended to read:~~

~~§ 7030. SENTENCING ALTERNATIVES~~

~~(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character~~

~~of the defendant, the defendant's family circumstances and relationships, the impact of any sentence upon the defendant's minor children; the need for treatment; any violations of conditions of release by the defendant that are established by reliable evidence; and the risk to self, others, and the community at large presented by the defendant:~~

~~(1) A deferred sentence pursuant to section 7041 of this title.~~

~~(2) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.~~

~~(3) Probation pursuant to 28 V.S.A. § 205.~~

~~(4) Supervised community sentence pursuant to 28 V.S.A. § 352.~~

~~(5) Sentence of imprisonment.~~

~~(b) When ordering a sentence of probation, the court may require participation in the Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.~~

~~Sec. 10. 18 V.S.A. § 4253 is amended to read:~~

~~§ 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A DRUG~~

~~(a) A person who uses a firearm during and in relation to selling or dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3), 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of this title shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, in addition to the penalty for the underlying crime.~~

~~(b) A person who uses a firearm during and in relation to trafficking a regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or 4234a(c) of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both, in addition to the penalty for the underlying crime.~~

~~(c) For purposes of this section, "use of a firearm" shall include include:~~

~~(1) using a firearm while selling or trafficking a regulated drug; and~~

~~(2) the exchange of firearms for drugs, and this section shall apply to the person who trades a firearm for a drug and the person who trades a drug for a firearm.~~

~~(d) Conduct constituting the offense of using a firearm while selling or trafficking a regulated drug shall be considered a violent act for the purposes of determining bail.~~

~~Sec. 11. DEPARTMENT OF CORRECTIONS, POSITIONS,
APPROPRIATION~~

~~(a) On July 1, 2024, six new permanent classified Pre-Trial Supervisor positions are created in the Department of Corrections. In addition to any other duties deemed appropriate by the Department, the Pre-Trial Supervisors shall monitor and supervise persons placed in the Pre-Trial Supervision Program pursuant to 13 V.S.A. § 7554g.~~

~~(b) The six Pre-Trial Supervisors established in subsection (a) of this section shall be subject to a General Fund appropriation in FY 2025.~~

~~(c) On July 1, 2024, one new permanent classified administrative assistant position is created in the Department of Corrections. In addition to any duties deemed appropriate by the Department, the administrative assistant shall provide administrative support to the Pre-Trial Supervision Program pursuant to 13 V.S.A. § 7554g.~~

~~(d) The one administrative assistant established in subsection (c) of this section shall be subject to a General Fund appropriation in FY 2025.~~

~~Sec. 11. [Deleted.]~~

~~Sec. 12. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~Sec. 1. 13 V.S.A. § 7551 is amended to read:~~

~~§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND
APPEARANCE BONDS~~

~~(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.~~

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

~~*(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00. The \$200.00 limit shall not apply to a person who the court determines has engaged in flight from prosecution in accordance with subdivision 7576(2) or subdivision 7554(a)(1) of this title.*~~

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00. The \$200.00 limit shall not apply to an offense allegedly committed by a defendant who has been released on personal recognizance or conditions of release pending trial for another offense.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. 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 the judicial officer unless the judicial officer determines that such a release

will not reasonably mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged; the number of offenses with which the person is charged; whether, at the time of the current offense or arrest, the defendant was released on conditions or personal recognizance, on probation, furlough, parole, or other release pending trial, sentencing, appeal, or completion of a sentence for an offense under federal or state law; and whether, in connection with a criminal prosecution, the defendant is compliant with court orders or has failed to appear at a court hearing. If the judicial officer determines that the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably mitigate the risk of flight of the defendant as required:

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

(B) Place restrictions on the travel or association of the defendant during the period of release.

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

(D) Upon consideration of the defendant's financial means, require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) [Repealed.]

(H) Place the defendant in the pretrial supervision program pursuant to section 7555 of this title, provided that the defendant meets the criteria identified in subdivision 7551(c)(1) of this title.

(I) Place the defendant in the home detention program pursuant to section 7554b of this title.

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

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

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

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

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

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

(F) [Repealed.]

(G) Place the defendant in the pretrial supervision program pursuant to section 7555 of this title, provided that the defendant meets the criteria identified in subdivision 7551(c)(1) of this title.

(H) Place the defendant in the home detention program pursuant to section 7554b of this title.

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

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

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(2) In subdivision (a)(2) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's family ties, employment, character and mental condition, length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings; whether, at the time of the current offense or arrest, the defendant was released on conditions or personal recognizance, on probation, furlough, parole, or other release pending trial, sentencing, appeal, or completion of a sentence for an offense under federal or state law; and whether, in connection with a criminal prosecution, the defendant is compliant with court orders or has failed to appear at a court hearing. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise ~~him or her~~ the person that a warrant for ~~his or her~~ the person's arrest ~~will~~ may be issued immediately upon any such violation.

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of ~~his or her~~ the person's inability to meet the conditions of release or who is ordered released on a condition that ~~he or she~~ the person return to custody after specified hours, or the State, following a material change in circumstances, shall, within 48 hours following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the

record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release, provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term "judicial officer" as used in this section and section 7556 of this title shall ~~mean~~ means a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear

before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours following the juvenile's arrest.

Sec. 3. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Intent. It is the intent of the General Assembly that the Home Detention Program be designed to provide an alternative to incarceration and reduce the number of detainees at Vermont correctional facilities by accommodating defendants who would otherwise be incarcerated or pose a significant risk to public safety.

(b) Definition. As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections, including the use of passive electronic monitoring. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.

(b)(c) Procedure Defendants with the inability to pay bail.

(1) Procedure. At the request of the court, the Department of Corrections, the prosecutor, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for inability to pay bail after bail has been set by the court may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required mitigate the defendant's risk of flight and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

(1)(A) the nature of the offense with which the defendant is charged;

(2)(B) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

~~(3)(C)~~ any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

~~(e)(2)~~ Failure to comply. The Department of Corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the Program and shall return the defendant to a correctional facility.

(d) Defendants who violate conditions of release.

(1) Procedure. At the request of the court, the prosecutor, or the defendant, the status of a defendant who has allegedly violated conditions of release may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2024. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program upon the court's finding that the defendant poses a significant risk to public safety, placing the defendant on home detention will reasonably mitigate such risk, and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider the factors listed in subdivisions (c)(1)(A)–(C) of this section.

(2) Failure to comply. The Department of Corrections may report a defendant's unauthorized absence or failure to comply with any other condition of the Program to the prosecutor and the defendant, provided that a defendant's failure to comply with any condition of the Program for a reason other than fault on the part of the defendant shall not be reportable. To address a reported violation, the prosecutor may request:

(A) a review of conditions pursuant to section 7554 of this title;

(B) a prosecution for contempt pursuant to section 7559 of this title;

or

(C) a bail revocation hearing pursuant to section 7575 of this title.

(e) Credit for time served. A defendant shall receive credit for a sentence of imprisonment for time served in the Home Detention Program.

(f) Program support. The Department may support the monitoring operations of the Program through grants of financial assistance to, or contracts for services with, any public entity that meets the Department's requirements.

(g) Policies and procedures. The Department of Corrections shall establish written policies and procedures for the Home Detention Program to be used by the Department, any contractors or grantees that the Department engages with to assist with the monitoring operations of the Program, and to assist the courts in understanding the Program.

Sec. 4. 13 V.S.A. § 7555 is added to read:

§ 7555. PRETRIAL SUPERVISION PROGRAM

(a) Purpose. The purpose of the Pretrial Supervision Program is to assist eligible people through the use of evidence-based strategies to improve pretrial compliance with conditions of release, to coordinate and support the provision of pretrial services when appropriate, to ensure attendance at court appearances, and to decrease the potential to recidivate while awaiting trial.

(b) Definition. As used in this section, “absconded” has the same meaning as “absconding” as defined in 28 V.S.A. § 722(1)(B)–(C).

(c) Pretrial supervision.

(1) Except as provided in subsection (g) of this section, beginning on January 1, 2025, the Pretrial Supervision Program shall, if ordered by the court pursuant to subsection (d) of this section, monitor defendants who have been charged with violating a condition of release pursuant to section 7559 of this title or have not fewer than five pending dockets and pose a risk of nonappearance at court hearings, a risk of flight, or a risk of endangering the public.

(2) The Department shall assign a pretrial supervision officer to monitor defendants in a designated region of Vermont and help coordinate any pretrial services needed by the defendant. The Department shall determine the appropriate level of supervision using evidence-based screenings of those defendants eligible to be placed in the Program. The Department’s supervision levels may include use of:

(A) the Department’s telephone monitoring system;

(B) telephonic meetings with a pretrial supervision officer;

(C) in-person meetings with a pretrial supervision officer;

(D) electronic monitoring; or

(E) any other means of contact deemed appropriate.

(3) When placing a defendant into the Program pursuant to subsection (d) of this section, the court shall issue an order that sets the defendant’s level

of supervision based on the recommendations submitted by the Department of Corrections.

(d) Procedure.

(1) At arraignment or at a subsequent hearing, the prosecutor or the defendant may move, or on the court's own motion, that the defendant be reviewed by the court to determine whether the defendant is appropriate for pretrial supervision. The review shall be scheduled upon the court's receipt of a report from the Department of Corrections containing recommendations pertaining to the defendant's supervision level.

(2) A defendant is eligible for pretrial supervision if the person has:

(A) violated conditions of release pursuant to section 7559 of this title; or

(B) not fewer than five pending court dockets.

(3) After a hearing and review of the Department of Corrections' report containing the defendant's supervision level recommendations, the court may order that the defendant be released to the Pretrial Supervision Program, provided that the court finds placing the defendant under pretrial supervision will reasonably ensure the person's appearance in court when required, will reasonably mitigate the risk of flight, or reasonably ensure protection of the public. In making such a determination, the court shall consider the following:

(A) the nature of the violation of conditions of release pursuant to section 7559 of this title;

(B) the nature and circumstances of the underlying offense or offenses with which the defendant is charged;

(C) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight;

(D) any risk or undue burden to third parties or risk to public safety that may result from the placement; or

(E) any other factors that the court deems appropriate.

(e) Compliance and review.

(1) Pretrial supervision officers shall notify the prosecutor and use reasonable efforts to notify the defendant of any violations of court-imposed Program conditions committed by the defendant.

(2) Pretrial supervision officers may notify the prosecutor and use reasonable efforts to notify the defendant of any violations of Department-imposed administrative conditions committed by the defendant.

(3) Upon the motion of the prosecutor or the defendant, or on the court's own motion, a defendant's compliance with pretrial supervision conditions may be reviewed by the court.

(4) Upon submission of the pretrial supervision officer's sworn affidavit by the prosecutor, the court may issue a warrant for the arrest of a defendant who fails to report to the pretrial supervision officer, commits multiple violations of supervision requirements, or has absconded.

(f) Policies and procedures.

(1) On or before November 1, 2024, the Department of Corrections shall establish written policies and procedures for the Pretrial Supervision Program to be used by the Department and any contractors or grantees that the Department engages with to assist in the monitoring operations of the Program and to assist the courts in understanding the Program.

(2) The Department shall develop policies and procedures concerning supervision levels, evidence-based criteria for each supervision level, and the means of contact that is appropriate for each supervision level.

(g) Contingent on funding. The Pretrial Supervision Program established in this section shall operate only to the extent funds are appropriated for its operation. If the Program is not operating in a particular county, the courts shall not order pretrial supervision as a condition of release in accordance with section 7554 of this title.

(h) Program support. The Department may support the operation of the Program through grants of financial assistance to, or contracts for services with, any public entity that meets the Department's requirements.

Sec. 5. 13 V.S.A. § 7559 is amended to read:

§ 7559. RELEASE; DESIGNATION; SANCTIONS VIOLATIONS OF CONDITIONS OF RELEASE; FAILURE TO APPEAR; WARRANTLESS ARREST

(a) The officer in charge of a facility under the control of the department of corrections, county jail or a local lockup shall discharge any person held by him or her upon receipt of an order for release issued by a judicial officer pursuant to section 7554 of this title, accompanied by the full amount of any bond or cash bail fixed by the judicial officer. The officer in charge, or a person designated by the Court Administrator, shall issue a receipt for such bond or cash bail, and shall account for and turn over such bond or cash bail

~~to the court having jurisdiction. The State's Attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a person who violates a condition of release imposed under section 7554 of this title. The maximum penalty that may be imposed under this section shall be a fine of \$1,000.00 or imprisonment for six months, or both.~~

~~(b) The Court Administrator shall designate persons to set bail for any person under arrest prior to arraignment when the offense charged provides for a penalty of less than two years imprisonment or a fine of less than \$1,000.00 or both. Such persons designated by the Court Administrator shall be considered judicial officers for the purposes of sections 7554 and 7556 of this title. Upon commencement of a prosecution for criminal contempt, including when considering an afterhours request to set temporary conditions or impose bail for criminal contempt, or upon the initial appearance of the person to answer such offense, in accordance with section 7553, 7553a, 7554, or 7575 of this title, a judicial officer may continue or modify existing conditions of release or terminate release of the person.~~

~~(c) Any person who is designated by the Court Administrator under subsection (b) of this section, may refuse the designation by so notifying the Court Administrator in writing within seven days of the designation. A person who has been released pursuant to section 7554 of this title with or without bail on condition that the person appear at a specified time and place in connection with a prosecution for an offense and who without just cause fails to appear shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.~~

~~(d) A person who has been released pursuant to section 7554 of this title with or without bail on condition that he or she appear at a specified time and place in connection with a prosecution for an offense and who without just cause fails to appear shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe the person without just cause has failed to appear at a specified time and place in connection with a prosecution for an offense or has violated a condition of release relating to a restriction on travel or a condition of release that the person not directly contact, harass, or cause to be harassed a victim or potential witness.~~

~~(e) The State's Attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a person who violates a condition of release imposed under section 7554 of this title. The maximum penalty that may be imposed under this subsection shall~~

~~be a fine of \$1,000.00 or imprisonment for six months, or both. Upon commencement of a prosecution for criminal contempt, the court shall review, in accordance with section 7554 of this title, and may continue or modify conditions of release or terminate release of the person. [Repealed.]~~

~~(f) Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe the person without just cause has failed to appear at a specified time and place in connection with a prosecution for an offense or has violated a condition of release relating to a restriction on travel or a condition of release that he or she not directly contact, harass, or cause to be harassed a victim or potential witness. [Repealed.]~~

Sec. 6. 13 V.S.A. § 7559a is added to read:

§ 7559a. RELEASE; DESIGNATION

(a) The officer in charge of a facility under the control of the department of corrections shall discharge any person held by the officer upon receipt of an order for release issued by a judicial officer pursuant to section 7554 of this title, accompanied by the full amount of any bond or cash bail fixed by the judicial officer. The officer in charge, or a person designated by the Court Administrator, shall issue a receipt for such bond or cash bail and shall account for and turn over such bond or cash bail to the court having jurisdiction.

(b) The Court Administrator shall designate persons to set bail for any person under arrest prior to arraignment when the offense charged provides for a penalty of less than two years imprisonment or a fine of not more than \$1,000.00, or both. Such persons designated by the Court Administrator shall be considered judicial officers for the purposes of sections 7554 and 7556 of this title.

(c) Any person who is designated by the Court Administrator under subsection (b) of this section may refuse the designation by so notifying the Court Administrator in writing within seven days of the designation.

Sec. 7. COMMUNITY RESTITUTION; INTENT

It is the intent of the General Assembly that the Department of Corrections reinstitute the Community Restitution Program and ensure that it is appropriately staffed and resourced so that it may be offered in all 14 counties as a sentencing alternative.

Sec. 8. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime; the history and character of the defendant; the defendant's family circumstances and relationships; the impact of any sentence upon the defendant's minor children; the need for treatment; any noncompliance with court orders or failures to appear in connection with a criminal prosecution; and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Community restitution pursuant to a policy adopted by the Commissioner of Corrections.

(4) Probation pursuant to 28 V.S.A. § 205.

~~(4)~~(5) Supervised community sentence pursuant to 28 V.S.A. § 352.

~~(5)~~(6) Sentence of imprisonment.

(b) When ordering a sentence of probation, the court may require participation in the Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 9. 18 V.S.A. § 4253 is amended to read:

*§ 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A
DRUG*

(a) A person who uses a firearm during and in relation to selling or dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3), 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of this title shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, in addition to the penalty for the underlying crime.

(b) A person who uses a firearm during and in relation to trafficking a regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or 4234a(c) of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both, in addition to the penalty for the underlying crime.

(c) For purposes of this section, “use of a firearm” ~~shall include~~ includes:

(1) using a firearm while selling or trafficking a regulated drug; and

(2) the exchange of firearms for drugs, and this section shall apply to the person who trades a firearm for a drug and the person who trades a drug for a firearm.

(d) Conduct constituting the offense of using a firearm while selling or trafficking a regulated drug shall be considered a violent act for the purposes of determining bail.

*Sec. 10. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
PRETRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;
REPORT*

(a) The Joint Legislative Justice Oversight Committee shall review the Pretrial Supervision Program established pursuant to 13 V.S.A. § 7555. The Committee shall review and provide recommendations to the Department of Corrections for the most prudent use of any funds appropriated to the Department to operate the Program. The review shall also include recommendations concerning the geographic areas that the Department may first implement the Program and future funding mechanisms for the Program.

(b) The Committee’s recommendations pursuant to subsection (a) of this section shall be submitted to the Department on or before September 1, 2024 and to the General Assembly on or before November 15, 2024.

*Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES;
RECONSTITUTION; REPORT*

(a) On or before January 1, 2025, the Corrections Monitoring Commission shall conduct a review to identify what the Commission’s needs are to operate, including its structural challenges; recommendations of changes to the membership of the Commission; the training necessary for members to operate effectively as a Commission; and the resources necessary given its mandates pursuant to 28 V.S.A. § 123.

(b) On or before January 15, 2025, the Commission shall present the results of the review to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions.

Sec. 12. PROSPECTIVE REPEAL

13 V.S.A. § 7555 shall be repealed on December 31, ~~2026~~2030.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.