

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 171
3 entitled “An act relating to eligibility for pretrial risk assessment and needs
4 screening” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

9 (a)(1) The objective of a pretrial risk assessment is to provide information
10 to the Court for the purpose of determining whether a person presents a risk of
11 nonappearance or a threat to public safety so the Court can make an
12 appropriate order concerning bail and conditions of pretrial release.

13 (2) The objective of a pretrial needs screening is to obtain a preliminary
14 indication of whether a person has a substantial substance abuse or mental
15 health issue that would warrant a subsequent court order for a more detailed
16 clinical assessment.

17 (3) Participation in a risk assessment or needs screening pursuant to this
18 section does not create any entitlement for the assessed or screened person.

19 (b)(1) A person whose offense or status falls into any of the following
20 categories shall be offered a risk assessment and, if deemed appropriate by the
21 pretrial monitor, a needs screening prior to arraignment:

1 (A) misdemeanors and felonies, excluding listed crimes and drug
2 trafficking, cited into court; and

3 (B) ~~persons cited or arrested for an offense that is not a listed crime~~
4 ~~who are identified by law enforcement, the prosecution, the defense, probation~~
5 ~~and parole personnel, the Court, a treatment provider, or a family member or~~
6 ~~friend as having a substantial substance abuse or mental health issue;~~

7 (C) ~~misdemeanor and felony drug offenses, excluding trafficking,~~
8 ~~cited into court; and~~

9 (D) persons who are arrested and lodged and unable to post bail
10 within 24 hours of lodging, excluding persons who are charged with an offense
11 for which registration as a sex offender is required upon conviction pursuant to
12 subchapter 3 of chapter 167 of this title or an offense punishable by up to life
13 imprisonment.

14 (2) As used in this section, “listed crime” shall have the same meaning
15 as provided in section 5301 of this title and “drug trafficking” means offenses
16 listed as such in Title 18.

17 (3) Unless ordered as a condition of release under section 7554 of this
18 title, participation in ~~an~~ risk assessment or needs screening shall be voluntary.

19 (4) In the event an assessment or screening cannot be obtained prior to
20 arraignment, ~~the Court shall direct~~ the risk assessment and needs screening ~~to~~
21 shall be conducted as soon as practicable.

1 (5) A person who qualifies pursuant to subdivisions (1)(A)-(D) of this
2 subsection and who has an additional pending charge or a violation of
3 probation shall not be excluded from being offered a risk assessment or needs
4 screening unless the other charge is a listed crime.

5 (6)(A) The Administrative Judge and Court Administrator, in
6 consultation with the Secretary of Human Services and the Commissioner of
7 Corrections, shall develop a statewide plan for the phased, consistent rollout of
8 the categories identified in subdivisions (1)(A) through (D) of this subsection,
9 in the order in which they appear in this subsection. The Administrative Judge
10 and Court Administrator shall present the plan to the Joint Legislative
11 Corrections Oversight Committee on or before October 15, 2014.

12 (B) All persons whose offense or status falls into one of the
13 categories shall be eligible for a risk assessment or needs screening on or
14 ~~before~~ after October 15, 2015. Prior to that date, a person shall not be
15 guaranteed the offer of a risk assessment or needs screening solely because the
16 person's offense or status falls into one of the categories. Criminal justice
17 professionals charged with implementation shall adhere to the plan.

18 (c) The results of the risk assessment and needs screening shall be provided
19 to the ~~prosecutor who, upon filing a criminal charge against the person, shall~~
20 ~~provide the results to the person and his or her attorney, the prosecutor, and the~~
21 Court.

1 (d)(1) ~~In~~ At arraignment, in consideration of the risk assessment and needs
2 screening, the Court may order the person to comply with ~~any of~~ the following
3 conditions:

4 (A) meet with a pretrial monitor on a schedule set by the Court; and

5 (B) participate in a clinical assessment by a substance abuse or
6 mental health treatment provider; and follow the recommendations of the
7 provider.

8 ~~(C) comply with any level of treatment or recovery support~~
9 ~~recommended by the provider follow the recommendation of the pretrial~~
10 ~~monitor if the person has voluntarily agreed to participate in a risk assessment~~
11 ~~or needs screening.~~

12 ~~(D), (E) [Repealed.]~~

13 (2) The Court may order the person to follow the recommendation of the
14 pretrial monitor if the person has voluntarily agreed to participate in a risk
15 assessment or needs screening post-arraignment.

16 (3) If possible, the Court shall set the date and time for the assessment at
17 arraignment. In the alternative, the pretrial monitor shall coordinate the date,
18 time, and location of the clinical assessment and advise the Court, the person
19 and his or her attorney, and the prosecutor.

1 ~~(3)~~(4) The conditions authorized in subdivision (1) of this subsection
2 shall be in addition to any other conditions of release permitted by law and
3 shall not limit the Court in any way.

4 (e)(1) Information obtained from the person during the risk assessment or
5 needs screening shall be exempt from public inspection and copying under the
6 Public Records Act and, except as provided in subdivision (2) of this
7 subsection, only may be used for determining bail, conditions of release, and
8 appropriate programming for the person in the pending case. The immunity
9 provisions of this subsection apply only to the use and derivative use of
10 information gained as a proximate result of the risk assessment or needs
11 screening.

12 (2) The person shall retain all of his or her due process rights throughout
13 the risk assessment and needs screening process and may release his or her
14 records at his or her discretion.

15 (3) The Vermont Supreme Court in accordance with judicial rulemaking
16 as provided in 12 V.S.A. § 1 shall promulgate and the Department of
17 Corrections in accordance with the Vermont Administrative Procedure Act
18 pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody,
19 control, and preservation of information consistent with the confidentiality
20 requirements of this section. Emergency rules adopted prior to January 1,

1 2015 pursuant to this section shall be considered to meet the “imminent peril”
2 standard under 3 V.S.A. § 844(a).

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on passage.

5 (Committee vote: _____)

6

7

Senator _____

8

FOR THE COMMITTEE