

1 H.503

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Crimes and criminal procedure; bail and recognizances

5 Statement of purpose of bill as introduced: This bill proposes to restrict
6 imposition of an appearance bond at the initial court appearance of a person
7 cited for a misdemeanor, to allow a court to release a probationer on bail or
8 conditions for an alleged violation of probation if bail or conditions would
9 reasonably ensure the probationer's appearance at future proceedings and
10 protect the public, and to assign interested parties the task of reporting to the
11 House and Senate Committees on Judiciary on options for facilitating pretrial
12 communication between the courts and defendants with a goal of reducing the
13 risk of nonappearance by defendants.

14 An act relating to bail

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

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

17 § 7551. APPEARANCE BONDS; GENERALLY

18 (a) A bond given by a person charged with a criminal offense or by a
19 witness in a criminal prosecution under section 6605 of this title, conditioned

1 for the appearance of the person or witness before the court in cases where the
2 offense is punishable by fine or imprisonment, and in appealed cases, shall be
3 taken to the ~~district or superior court~~ Criminal Division of the Superior Court
4 where the prosecution is pending, and shall remain binding upon parties until
5 discharged by the court or until sentencing. The person or witness shall appear
6 at all required court proceedings.

7 (b) No bond may be imposed at the initial appearance of a person charged
8 with a misdemeanor if the person was cited for the offense in accordance with
9 Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not
10 be construed to restrict the court's ability to impose conditions on such persons
11 to reasonably ensure his or her appearance at future proceedings or to
12 reasonably protect the public in accordance with section 7554 of this title.

13 Sec. 2. 28 V.S.A. § 301 is amended to read:

14 § 301. SUMMONS OR ARREST OF PROBATIONER

15 * * *

16 (2) Arrest or citation of person on probation. Any correctional officer
17 may arrest a probationer without a warrant if, in the judgment of the
18 correctional officer, the probationer has violated a condition or conditions of
19 his or her probation other than a condition that the probationer pay restitution;
20 or may deputize any other law enforcement officer to arrest a probationer
21 without a warrant by giving him or her a written statement setting forth that

1 the probationer has, in the judgment of the correctional officer, violated a
2 condition or conditions of his or her probation other than a condition that the
3 probationer pay restitution. The written statement delivered with the person
4 by the arresting officer to the supervising officer of the correctional facility to
5 which the person is brought for detention shall be sufficient warrant for
6 detaining him or her. In lieu of arrest, a correctional officer may issue a
7 probationer a citation to appear for arraignment. In deciding whether to arrest
8 or issue a citation, an officer shall consider whether issuance of a citation will
9 reasonably ensure the probationer's appearance at future proceedings and
10 reasonably protect the public.

11 * * *

12 (4) Detention pending hearing for probationer. Pending arraignment for
13 any charge of violation, the probationer shall ~~continue to~~ be detained at a
14 correctional facility unless issued a citation by a correctional officer.

15 Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554.
16 There shall be no right to bail or release, unless the person is on probation for
17 a nonviolent misdemeanor or nonviolent felony ~~and the probation violation did~~
18 ~~not constitute a new crime.~~

19 (5)(A) At arraignment, if the court finds that bail or conditions of
20 release will reasonably ensure the probationer's appearance at future
21 proceedings and conditions of release will reasonably protect the public, the

1 court:

2 (i) shall release a probationer who is on probation for a nonviolent
3 misdemeanor or nonviolent felony pursuant to 13 V.S.A. § 7554; and

4 (ii) may release a probationer who is on probation for a violent
5 misdemeanor or violent felony pursuant to 13 V.S.A. § 7554.

6 (B) As used in this subdivision section:

7 (A)(i) “Nonviolent felony” means a felony offense which that is
8 not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving
9 sexual exploitation of children in violation of 13 V.S.A. chapter 64.

10 (B)(ii) “Nonviolent misdemeanor” means a misdemeanor offense
11 which that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense
12 involving sexual exploitation of children in violation of 13 V.S.A. chapter 64
13 or 13 V.S.A. § 1030.

14 Sec. 3. PRETRIAL COMMUNICATIONS RECOMMENDATIONS

15 The Court Administrator, the Department of State’s Attorneys, the Office of
16 the Defender General, and the Vermont Chapter of the American Civil
17 Liberties Union shall work together and with other interested parties to
18 examine options for facilitating pretrial communication between the courts and
19 defendants with a goal of reducing the risk of nonappearance by defendants.
20 The parties jointly shall provide options and costs of such options to the Senate
21 and House Committees on Judiciary on or before October 15, 2017.

Sec. 4. 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. The court may authorize scheduled absences such as 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~~ court.

(b) Procedure. ~~The~~ At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial for more than seven days in a correctional facility for lack of bail may be reviewed by the ~~Court~~ court to determine whether the defendant is appropriate for home detention. ~~The request for review may be made by either the Department of Corrections or the defendant. After~~ At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, providing that the ~~Court~~ court finds placing the defendant on home detention will reasonably assure his or her appearance in ~~Court~~ court when required and the proposed residence is appropriate for home detention.

In making such a determination, the court shall consider:

* * *

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

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on July 1, 2017.