

1 H.675

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; bail and recognizances; release prior
6 to trial

7 Statement of purpose of bill as introduced: This bill proposes to clarify that a
8 court may order, as a condition of release prior to trial, that a defendant
9 participate in prevention of domestic violence programming or that a defendant
10 not possess a firearm or other weapon.

11 An act relating to conditions of release prior to trial

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) Any person charged with an offense, other than a person held without
16 bail under section 7553 or 7553a of this title, shall at his or her appearance
17 before a judicial officer be ordered released pending trial in accordance with
18 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 by

1 the judicial officer unless the judicial officer determines that such a release will
2 not reasonably ensure the appearance of the person as required. In determining
3 whether the defendant presents a risk of nonappearance, the judicial officer
4 shall consider, in addition to any other factors, the seriousness of the offense
5 charged and the number of offenses with which the person is charged. If the
6 officer determines that such a release will not reasonably ensure the
7 appearance of the defendant as required, 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 ensure the appearance of the defendant as
11 required:

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

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

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

1 (D) Require the execution of a secured appearance bond in a
2 specified amount and the deposit with the clerk of the ~~Court~~ court, in cash or
3 other security as directed, of a sum not to exceed 10 percent of the amount of
4 the bond, such deposit to be returned upon the appearance of the defendant as
5 required.

6 (E) Require the execution of a surety bond with sufficient solvent
7 sureties, or the deposit of cash in lieu thereof.

8 (F) Impose any other condition found reasonably necessary to ensure
9 appearance as required, including a condition requiring that the defendant
10 return to custody after specified hours.

11 (G) Place the defendant in a program of community-based electronic
12 monitoring in accordance with section 7554d of this title.

13 (2) If the judicial officer determines that conditions of release imposed
14 to ensure appearance will not reasonably protect the public, the judicial officer
15 may impose in addition the least restrictive of the following conditions or the
16 least restrictive combination of the following conditions that will reasonably
17 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 if the defendant is charged with
20 an offense that is not a nonviolent misdemeanor or nonviolent felony as
21 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) If the defendant is a State, county, or municipal officer charged
11 with violating section 2537 of this title, the court may suspend the officer's
12 duties in whole or in part; if the court finds that it is necessary to protect the
13 public.

14 (F) Place the defendant in a program of community-based electronic
15 monitoring in accordance with section 7554d of this title.

16 (G) Require the defendant to participate in prevention of domestic
17 violence programming which meets statewide standards as certified by the
18 Council on Domestic Violence in accordance with 15 V.S.A. § 1172.

19 (H) Require a defendant not to possess firearms or other weapons.

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

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

3 (b) In determining which conditions of release to impose under subsection
4 (a) of this section, the judicial officer shall, on the basis of available
5 information, take into account the nature and circumstances of the offense
6 charged; the weight of the evidence against the accused; and the accused's
7 family ties, employment, financial resources, character ~~and~~ mental condition,
8 ~~the~~ length of residence in the community, record of convictions, and record of
9 appearance at court proceedings or of flight to avoid prosecution or failure to
10 appear at court proceedings. Recent history of actual violence or threats of
11 violence may be considered by the judicial officer as bearing on the character
12 and mental condition of the accused.

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

19 (d)(1) A person for whom conditions of release are imposed and who is
20 detained as a result of his or her inability to meet the conditions of release or
21 who is ordered released on a condition that he or she return to custody after

1 specified hours shall, within 48 hours of application, be entitled to have the
2 conditions reviewed by a judge in the court having original jurisdiction over
3 the offense charged. A person applying for review shall be given the
4 opportunity for a hearing. Unless the conditions of release are amended as
5 requested, the judge shall set forth in writing or orally on the record a
6 reasonable basis for continuing the conditions imposed. In the event that a
7 judge in the court having original jurisdiction over the offense charged is not
8 available, any Superior judge may review such conditions.

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

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

1 (f) The term “judicial officer” as used in this section and section 7556 of
2 this title shall mean a clerk of a Superior Court or a Superior Court judge.

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

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

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

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

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

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

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

1 judicial officer and be ordered released pending trial in accordance with this
2 section within 24 hours ~~of~~ after the juvenile's arrest.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on July 1, 2018.