

1 S.124

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Bail; electronic monitoring

6 Statement of purpose of bill as introduced: This bill proposes to ensure that
7 community-based electronic monitoring be imposed in lieu of the imposition
8 of bail and directs the county sheriffs to supervise individuals placed on
9 community-based electronic monitoring as a condition of pretrial release.

10 An act relating to community-based electronic monitoring

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

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

13 § 7554. RELEASE PRIOR TO TRIAL

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

18 (1) The defendant shall be ordered released on personal recognizance or
19 upon the execution of an unsecured appearance bond in an amount specified by
20 the judicial officer unless the judicial officer determines that such a release will

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

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

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

17 (C) Require the defendant to participate in an alcohol or drug
18 treatment program. The judicial officer shall take into consideration the
19 defendant's ability to comply with an order of treatment and the availability of
20 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~~ In lieu of requiring the execution of an unsecured
12 appearance bond, a secured appearance bond, or a surety bond, place the
13 defendant in a program of community-based electronic monitoring in
14 accordance with section 7554d of this title.

15 (2) If the judicial officer determines that conditions of release imposed
16 to ensure appearance will not reasonably protect the public, the judicial officer
17 may impose in addition the least restrictive of the following conditions or the
18 least restrictive combination of the following conditions that will reasonably
19 ensure protection of the public:

20 (A) Place the defendant in the custody of a designated person or
21 organization agreeing to supervise him or her if the defendant is charged with

1 an offense that is not a nonviolent misdemeanor or nonviolent felony as
2 defined in 28 V.S.A. § 301.

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

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

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

12 (E) If the defendant is a State, county, or municipal officer charged
13 with violating section 2537 of this title, the ~~Court~~ court may suspend the
14 officer's duties in whole or in part, if the ~~Court~~ court finds that it is necessary
15 to protect the public.

16 (F) ~~Place~~ In lieu of requiring the execution of an unsecured
17 appearance bond, secured appearance bond, or surety bond, place the
18 defendant in a program of community-based electronic monitoring in
19 accordance with section 7554d of this title.

20 * * *

1 Sec. 2. 13 V.S.A. § 7554d is amended to read:

2 § 7554d. ELECTRONIC MONITORING PILOT PROGRAM

3 (a)(1) The Windham County Sheriff's Office (WCSO) shall establish and
4 manage a two-year electronic monitoring pilot program in Windham County
5 for the purpose of supervising persons ordered to be under electronic
6 monitoring as a condition of release ~~or in addition to~~ or in lieu of the
7 imposition of bail pursuant to section 7554 of this title. The program shall be a
8 part of an integrated community incarceration program and shall provide
9 24-hours-a-day, seven-days-a-week electronic monitoring with supervision and
10 immediate response.

11 (2) For purposes of this program, if electronic monitoring is ordered by
12 the ~~Court~~ court pursuant to section 7554 of this title, the ~~Court~~ court shall use
13 the following criteria for determining whether electronic monitoring is
14 appropriate:

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

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

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

1 (3) Individuals ordered to be placed in a community-based electronic
2 monitoring program pursuant to section 7554 of this title shall be supervised
3 by the sheriff for the county in which the individual was charged.

4 (4) The WCSO shall establish written policies and procedures for the
5 electronic monitoring program, ~~shall provide progress reports on the~~
6 ~~development of the policies and procedures to the Justice Oversight~~
7 ~~Committee, and shall submit the final policies and procedures to the~~
8 ~~Committee for approval on or before June 30, 2016~~ and shall make those
9 policies and procedures available to other county sheriffs supervising persons
10 under an electronic monitoring program.

11 (b) The goal of the pilot program is to assist policymakers in determining
12 whether electronically monitored home detention and home confinement can
13 be utilized for pretrial detention and as a post-adjudication option to reduce
14 recidivism, to improve public safety, and to save valuable bed space for
15 detainees and inmates who, without an electronic monitoring program, would
16 otherwise be lodged in a correctional facility. Additional benefits may include
17 reducing transportation costs, increasing detainee access to services, reducing
18 case resolution time, and determining if the program can be replicated
19 statewide.

20 (c) The WCSO shall work with the Crime Research Group (CRG) for
21 design and evaluation assistance. The program shall be evaluated by CRG to

1 determine if the stated goals have been attained, the cost and savings of the
2 program, identifying what goals or objective were not met and if not, what
3 could be changed to meet the goals and objectives to ensure program success.

4 The Joint Fiscal Office shall contract with the CRG to provide design and
5 evaluation services.

6 (d)(1) The WCSO is authorized to enter into written agreements with the
7 sheriffs of other counties permitting those counties to participate in the pilot
8 program subject to the policies and procedures established by the WCSO under
9 this section. At least one of the agreements shall be between the WCSO and a
10 county with a significant population.

11 (2) The purpose of expanding the electronic monitoring program to
12 other counties under this subsection is to increase the number of participants to
13 a level sufficient to permit evaluation of whether the program is meeting the
14 bed savings and other goals identified in subsection (b) of this section.

15 (e) The Department of Corrections shall enter into a memorandum of
16 understanding with the Department of State's Attorneys and Sheriffs for
17 oversight and funding of the electronic monitoring program established by this
18 section. The memorandum shall establish processes for:

19 (1) transmitting funding for the electronic monitoring program from the
20 Department of Corrections to the Department of State's Attorneys and Sheriffs

1 for purposes of allocation to the sheriff's departments participating in the
2 program; and

3 (2) maintaining oversight of the electronic monitoring program to ensure
4 that it complies with the requirements of this section and the policies and
5 procedures established by the WCSO pursuant to subdivision (a)(3) of this
6 section.

7 (f) The pilot program shall be in effect from July 1, 2014 through June 30,
8 2018.

9 Sec. 3. EFFECTIVE DATE

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