

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Crimes and criminal procedure; bail and recognizances

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

13 An act relating to bail

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

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

16 § 7551. APPEARANCE BONDS; GENERALLY

17 (a) A bond given by a person charged with a criminal offense or by a  
18 witness in a criminal prosecution under section 6605 of this title, conditioned  
19 for the appearance of the person or witness before the court in cases where the  
20 offense is punishable by fine or imprisonment, and in appealed cases, shall be

1 taken to the ~~district or superior court~~ Criminal Division of the Superior Court  
2 where the prosecution is pending, and shall remain binding upon parties until  
3 discharged by the court or until sentencing. The person or witness shall appear  
4 at all required court proceedings.

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

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

12 § 301. SUMMONS OR ARREST OF PROBATIONER

13 \* \* \*

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

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

9 \* \* \*

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

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

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

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

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

3                   (B) As used in this ~~subdivision~~ section:

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

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

11                   Sec. 3. PRETRIAL COMMUNICATIONS RECOMMENDATIONS

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

19                   Sec. 4. EFFECTIVE DATE

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