

1 H.56

2 Introduced by Representatives Grad of Moretown, Colburn of Burlington,  
3 Conquest of Newbury, LaLonde of South Burlington, and  
4 Rachelson of Burlington

5 Referred to Committee on

6 Date:

7 Subject: Criminal procedure; bail and recognizances

8 Statement of purpose of bill as introduced: This bill proposes to amend the  
9 qualifying conditions for eligibility to participate in voluntary pretrial risk  
10 assessments and needs screenings; to direct the court to consider the results of  
11 any risk assessment and needs screening in determining whether a defendant  
12 poses a risk of nonappearance; and to clarify that the pretrial monitor shall  
13 have authority to monitor conditions of release, draft affidavits in cases of  
14 violations of conditions of release, and communicate with the defendant,  
15 including through phone calls and electronic means, to mitigate the risk of  
16 nonappearance.

17 An act relating to pretrial risk assessments and needs screenings

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

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

3 § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

4 (a)(1) The objective of a pretrial risk assessment is to provide information  
5 to the ~~Court~~ court for the purpose of determining whether a person presents a  
6 risk of nonappearance or a threat to public safety, so the ~~Court~~ court can make  
7 an appropriate order concerning bail and conditions of pretrial release.

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

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

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

17 (A) ~~misdemeanors and felonies, excluding listed crimes and drug~~  
18 ~~trafficking, cited into court~~ persons who are lodged prior to their initial court  
19 appearance; and

20 (B) persons who are arrested and lodged and unable to post bail  
21 within 24 hours of lodging, excluding persons who are charged with an offense

1 for which registration as a sex offender is required upon conviction pursuant to  
2 subchapter 3 of chapter 167 of this title or with an offense punishable by up to  
3 life imprisonment; and

4 (C) persons who have a previous incident of failure to appear in court  
5 or a conviction for a violation of a court order.

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

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

11 (4) In the event an assessment or screening cannot be obtained prior to  
12 arraignment, the risk assessment and needs screening shall be conducted as  
13 soon as practicable.

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

18 (6)(A) The Administrative Judge and Court Administrator, in  
19 consultation with the Secretary of Human Services and the Commissioner of  
20 Corrections, shall develop a statewide plan for the phased, consistent rollout of  
21 the categories identified in subdivisions (1)(A) through (D) of this subsection,

1 in the order in which they appear in this subsection. The Administrative Judge  
2 and Court Administrator shall present the plan to the Joint Legislative  
3 Corrections Oversight Committee on or before October 15, 2014.

4 (B) All persons whose offense or status falls into one of the  
5 categories shall be eligible for a risk assessment or needs screening on or after  
6 October 15, 2015. Prior to that date, a person shall not be guaranteed the offer  
7 of a risk assessment or needs screening solely because the person's offense or  
8 status falls into one of the categories. Criminal justice professionals charged  
9 with implementation shall adhere to the plan.

10 (c) The results of the risk assessment and needs screening shall be provided  
11 to the person and his or her attorney, the prosecutor, and the ~~Court~~ court. The  
12 court shall consider the results of any risk assessment and needs screening in  
13 determining whether there is a risk of nonappearance.

14 (d)(1) At arraignment, in consideration of the risk assessment and needs  
15 screening, the ~~Court~~ court may order the person to comply with the following  
16 conditions:

17 (A) meet with a pretrial monitor on a schedule set by the ~~Court~~  
18 court; and

19 (B) participate in a clinical assessment by a substance abuse or  
20 mental health treatment provider and follow the recommendations of the  
21 provider.

1           (2) The ~~Court~~ court may order the person to follow the recommendation  
2 of the pretrial monitor if the person has completed a risk assessment or needs  
3 screening.

4           (3) If possible, the ~~Court~~ court shall set the date and time for the  
5 assessment at arraignment. In the alternative, the pretrial monitor shall  
6 coordinate the date, time, and location of the clinical assessment and advise the  
7 ~~Court~~ court, the person and his or her attorney, and the prosecutor.

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

11           (e)~~(1)~~ The pretrial monitor shall have authority to monitor conditions of  
12 release, draft affidavits in cases of violations of conditions of release, and  
13 communicate with the defendant, including through phone calls and electronic  
14 means, to mitigate the risk of nonappearance.

15           (f)~~(1)~~ Information obtained from the person during the risk assessment or  
16 needs screening shall be exempt from public inspection and copying under the  
17 Public Records Act and, except as provided in subdivision (2) of this  
18 subsection, only may be used for determining bail, conditions of release, and  
19 appropriate programming for the person in the pending case. The immunity  
20 provisions of this subsection apply only to the use and derivative use of

1 information gained as a proximate result of the risk assessment or needs  
2 screening.

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

6 (3) The Vermont Supreme Court in accordance with judicial rulemaking  
7 as provided in 12 V.S.A. § 1 shall promulgate and the Department of  
8 Corrections in accordance with the Vermont Administrative Procedure Act  
9 pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody,  
10 control, and preservation of information consistent with the confidentiality  
11 requirements of this section. Emergency rules adopted prior to January 1,  
12 2015 pursuant to this section shall be considered to meet the “imminent peril”  
13 standard under 3 V.S.A. § 844(a).

14 Sec. 2. EFFECTIVE DATE

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