

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 with the exception of domestic assaults and stalking.

7 An act relating to bail

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

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

10 § 7551. APPEARANCE BONDS; GENERALLY

11 (a) A bond given by a person charged with a criminal offense or by a
12 witness in a criminal prosecution under section 6605 of this title, conditioned
13 for the appearance of the person or witness before the court in cases where the
14 offense is punishable by fine or imprisonment, and in appealed cases, shall be
15 taken to the ~~district or superior court~~ District or Superior Court where the
16 prosecution is pending, and shall remain binding upon parties until discharged
17 by the court or until sentencing. The person or witness shall appear at all
18 required court proceedings.

19 (b) No bond may be imposed at the initial appearance of a person charged
20 with a misdemeanor, other than a misdemeanor violation of subchapters 6 and

1 7 of chapter 19 of this title or 13 V.S.A. § 5409, if the person was cited for the
2 offense in accordance with Rule 3 of the Vermont Rules of Criminal
3 Procedure.

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

5 § 7554. RELEASE PRIOR TO TRIAL

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

10 (1) The defendant shall be ordered released on personal recognizance or
11 upon the execution of an unsecured appearance bond in an amount specified by
12 the judicial officer unless the judicial officer determines that such a release will
13 not reasonably ensure the appearance of the person as required. In determining
14 whether the defendant presents a risk of nonappearance, the judicial officer
15 shall consider, in addition to any other factors, the seriousness of the offense
16 charged and the number of offenses with which the person is charged. If the
17 officer determines that such a release will not reasonably ensure the
18 appearance of the defendant as required, the officer shall, either in lieu of or in
19 addition to the methods of release in this section, impose the least restrictive of
20 the following conditions or the least restrictive combination of the following

1 conditions that will reasonably ensure the appearance of the defendant as
2 required:

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

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

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

13 (D) Require the execution of a secured appearance bond in a
14 specified amount and the deposit with the clerk of the Court, in cash or other
15 security as directed, of a sum not to exceed 10 percent of the amount of the
16 bond, such deposit to be returned upon the appearance of the defendant as
17 required.

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

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

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

6 (2) If the judicial officer determines that conditions of release imposed
7 to ensure appearance will not reasonably protect the public, the judicial officer
8 may impose in addition the least restrictive of the following conditions or the
9 least restrictive combination of the following conditions that will reasonably
10 ensure protection of the public:

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) Impose any other condition found reasonably necessary to
2 protect the public, except that a physically restrictive condition may only be
3 imposed in extraordinary circumstances.

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

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

10 (3) A judicial officer may order that a defendant not harass or contact or
11 cause to be harassed or contacted a victim or potential witness. This order
12 shall take effect immediately, regardless of whether the defendant is
13 incarcerated or released.

14 (b) In determining which conditions of release to impose under subsection
15 (a) of this section, the judicial officer shall, on the basis of available
16 information, take into account the nature and circumstances of the offense
17 charged, the weight of the evidence against the accused, the accused's family
18 ties, employment, financial resources, character and mental condition, the
19 length of residence in the community, record of convictions, and record of
20 appearance at court proceedings or of flight to avoid prosecution or failure to
21 appear at court proceedings. Recent history of actual violence or threats of

1 violence may be considered by the judicial officer as bearing on the character
2 and mental condition of the accused.

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

9 (d)(1) A person for whom conditions of release are imposed and who is
10 detained as a result of his or her inability to meet the conditions of release or
11 who is ordered released on a condition that he or she return to custody after
12 specified hours shall, within 48 hours of application, be entitled to have the
13 conditions reviewed by a judge in the Court having original jurisdiction over
14 the offense charged. A person applying for review shall be given the
15 opportunity for a hearing. Unless the conditions of release are amended as
16 requested, the judge shall set forth in writing or orally on the record a
17 reasonable basis for continuing the conditions imposed. In the event that a
18 judge in the Court having original jurisdiction over the offense charged is not
19 available, any Superior judge may review such conditions.

20 (2) A person for whom conditions of release are imposed shall, within
21 five working days of application, be entitled to have the conditions reviewed

1 by a judge in the Court having original jurisdiction over the offense charged.

2 A person applying for review shall be given the opportunity for a hearing.

3 Unless the conditions of release are amended as requested, the judge shall set
4 forth in writing or orally on the record a reasonable basis for continuing the
5 conditions imposed. In the event that a judge in the Court having original
6 jurisdiction over the offense charged is not available, any Superior judge may
7 review such conditions.

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

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

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

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

1 (i) The Court Administrator shall establish forms for appearance bonds,
2 secured appearance bonds, surety bonds, and for use in the posting of bail.

3 Each form shall include the following information:

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

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

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

11 (j) Any juvenile between 14 and 16 years of age who is charged with a
12 listed crime as defined in subdivision 5301(7) of this title shall appear before a
13 judicial officer and be ordered released pending trial in accordance with this
14 section within 24 hours of the juvenile's arrest.

15 Sec. 3. EFFECTIVE DATE

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