

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 to allow a court to release a probationer on bail or conditions for an alleged
8 violation of probation if bail or conditions would reasonably ensure the
9 probationer's appearance at future proceedings and protect the public, and to
10 assign interested parties the task of reporting to the House and Senate
11 Committees on Judiciary on options for facilitating pretrial communication
12 between the courts and defendants with a goal of reducing the risk of
13 nonappearance by defendants.

14 An act relating to bail

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

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

17 § 7551. APPEARANCE BONDS; GENERALLY

18 (a) A bond given by a person charged with a criminal offense or by a
19 witness in a criminal prosecution under section 6605 of this title, conditioned
20 for the appearance of the person or witness before the court in cases where the

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

6 (b) No bond may be imposed at the initial appearance of a person charged
7 with a misdemeanor, other than a misdemeanor violation of subchapters 6 and
8 7 of chapter 19 of this title or 13 V.S.A. § 5409, if the person was cited for the
9 offense in accordance with Rule 3 of the Vermont Rules of Criminal
10 Procedure.

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.

6 * * *

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

10 Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554.

11 There shall be no right to bail or release, unless the person is on probation for a
12 nonviolent misdemeanor or nonviolent felony ~~and the probation violation did~~
13 ~~not constitute a new crime.~~

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

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

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

1 (B) As used in this subdivision section:

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

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

9 Sec. 3. PRETRIAL MONITORING RECOMMENDATIONS

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

17 Sec. 4. EFFECTIVE DATE

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