

PreCharge Programming & Pretrial Services 2.0

As envisioned by David Cahill

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Current Obstacles:

- There are too many players in the Alternative Justice market.
- Lack of a consistent statewide product.
- Lack of training/understanding/buy-in by attorneys and judges regarding Pretrial Services
- Pretrial Services suffers from mission creep (read: drowning in DUI defendants who are not going to be detained)
- Pretrial Services is not equipped to mitigate risk of flight or nonappearance

Proposed Solutions (partially contained in H.56):

- I. Use the umbrella of Adult Court Diversion to deliver a uniform suite of services on a statewide basis:
 - a. **Diversion One:** *pre-arraignment* program for first or second time misdemeanors or first time nonviolent felonies, as provided in current law. 3 V.S.A. Sec. 164. No legislative action needed here.
 - b. **Diversion Two:** *pre-arraignment program* for individuals with high need in areas of substance addiction and mental illness. Diversion Two would be the statewide successor program to the current patchwork of county-level pre-charge programs (RICC, WRAP, etc) that were contemplated by 2014 Vermont Laws Act 195.
 - i. **Legislative Action Item:** Need to codify “Diversion Two” in 3 V.S.A. Sec. 364.

c. **Pretrial Services:** *pretrial program* intended to provide timely support to non-violent defendants at risk for pretrial detention.

i. **Legislative Action Items:** amend 13 VSA Sec. 7554c to:

- Narrow the scope of individuals eligible for Pretrial Services (13 VSA 7554c) to target those at risk of pretrial detention, namely:
 - Persons who were lodged prior to their initial court appearance
 - Persons who have been held for lack of bail for more than 24 hours
 - Persons whose criminal record check reveals:
 - A failure to appear in court
 - A conviction for a violation of a court order
- Direct that the court shall consider the results of the screening, if one was performed, in determining whether a risk of nonappearance can be mitigated through conditions of release supervised by the monitor.
- Grant the Pretrial Services Coordinator the authority to:
 - Remind individuals of upcoming court dates
 - Confirm an individual's address
 - Confirm an individual's continued presence in the State/County.
 - Confirm an individual's participation in pretrial drug/alcohol treatment as ordered pursuant to 13 V.S.A. 7554(a)(1)(C)

ii. **Legislative Action Item:** require that judges, prosecutors, and defense attorneys be trained regarding the three diversion programs listed above.