

1 H.20

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; pretrial risk assessments; pretrial services

6 Statement of purpose of bill as introduced: This bill proposes to make pretrial
7 risk assessments discretionary rather than mandatory and to make pretrial
8 services available to persons subject to youthful offender petitions and to
9 persons under 18 years of age subject to delinquency petitions.

10 An act relating to pretrial risk assessments and pretrial services

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

12 ~~Sec. 1, 13 V.S.A. § 7554a is amended to read:~~

13 § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

14 (a)(1) The objective of a pretrial risk assessment is to provide information
15 to the court for the purpose of determining whether a person presents a risk of
16 nonappearance or a risk of re-offense so the court can make an appropriate
17 order concerning bail and conditions of pretrial release. The assessment shall
18 ~~not assess victim safety or risk of lethality in domestic assaults.~~

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

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

7 (b)(1) Except as provided in subdivision (2) of this subsection, a person
8 who is arrested, lodged, and unable to post bail within 24 hours of lodging
9 shall may be offered a risk assessment and, if deemed appropriate by the
10 pretrial services coordinator, a needs screening prior to arraignment.

11 (2) A person charged with an offense for which registration as a sex
12 offender is required pursuant to chapter 167, subchapter 3 of this title or an
13 offense punishable by a term of life imprisonment shall not be eligible under
14 this section.

15 (3) Participation in risk assessment or needs screening shall be
16 voluntary and a person's refusal to participate shall not result in any criminal
17 legal liability to the person.

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

1 ~~(5) A person who qualifies pursuant to subdivision (1) of this subsection~~
2 and who has an additional pending charge or a violation of probation shall not
3 be excluded from being offered a risk assessment or needs screening unless the
4 other charge is a listed crime.

5 (6) Any person charged with a criminal offense ~~or~~, a person who is the
6 subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a
7 person 18 years of age or older who is the subject of a delinquency petition
8 pursuant to 33 V.S.A. § 5201, except those persons identified in subdivision
9 (2) of this subsection, may choose to engage with a pretrial services
10 coordinator.

11 (c) The results of the risk assessment and needs screening shall be provided
12 to the person and his or her attorney, the prosecutor, and the court. Pretrial
13 services coordinators may share information only within the limitations of
14 subsection (e) of this section.

15 (d)(1) At arraignment, the court may order a person who is eligible to
16 engage with a pretrial services coordinator under subdivision (b)(6) of this
17 section to do the following:

18 (A) meet with a pretrial services coordinator on a schedule set by the
19 court;

20 (B) participate in a needs screening with a pretrial services
21 coordinator, and

1 ~~(C) participate in a clinical assessment by a substance abuse or~~
2 mental health treatment provider and follow the recommendations of the
3 provider.

4 (2) The court may order the person to engage in pretrial services.

5 Pretrial services may include the pretrial services coordinator:

6 (A) supporting the person in meeting conditions of release imposed
7 by the court, including the condition to appear for judicial proceedings; and

8 (B) connecting the person with community-based treatment
9 programs, rehabilitative services, recovery supports, and restorative justice
10 programs.

11 (3) If possible, the court shall set the date and time for the clinical
12 assessment at arraignment. In the alternative, the pretrial services coordinator
13 shall coordinate the date, time, and location of the clinical assessment and
14 advise the court, the person and his or her attorney, and the prosecutor.

15 (4) An order authorized in subdivision (1) or (2) of this subsection shall
16 be in addition to any conditions of release permitted by law and shall not limit
17 the court in any way. Failure to comply with a court order authorized by
18 subdivision (1) or (2) of this subsection shall not constitute a violation of
19 ~~section 7559 of this title.~~

1 ~~(5) This section shall not be construed to limit a court's authority to~~
2 ~~impose conditions pursuant to section 7554 of this title.~~

3 * *

4 Sec. 2. EFFECTIVE DATE

5 ~~This act shall take effect on passage.~~

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

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) ~~The objective of a pretrial risk assessment is to provide information to the court for the purpose of determining whether a person presents a risk of nonappearance or a risk of re-offense so the court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.~~

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

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

(b)(1) ~~Except as provided in subdivision (2) of this subsection, a judge may request that a pretrial services coordinator perform a risk assessment that~~

~~assesses risk of flight for a person who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.~~

~~(2) A person charged with an offense for which registration as a sex offender is required pursuant to chapter 167, subchapter 3 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.~~

~~(3) Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.~~

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

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

~~(6) Any person charged with a criminal offense or, a person who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a person 18 years of age or older who is the subject of a delinquency petition~~

~~pursuant to 33 V.S.A. § 520L, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.~~

~~(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.~~

~~(d)(1) At arraignment, the court may order a person who is eligible to engage with a pretrial services coordinator under subdivision (b)(6) of this section to do the following:~~

~~(A) meet with a pretrial services coordinator on a schedule set by the court;~~

~~(B) participate in a needs screening with a pretrial services coordinator; and~~

~~(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.~~

~~(2) The court may order the person to engage in pretrial services. Pretrial services may include the pretrial services coordinator:~~

~~(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings, and~~

~~(2) connecting the person with community based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.~~

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

~~(4) An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any conditions of release permitted by law and shall not limit the court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.~~

~~(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.~~

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~~Sec. 2. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

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

~~§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS~~

~~(a)(1) The objective of a pretrial risk assessment is to provide information to the court for the purpose of determining whether a person presents a risk of~~

~~nonappearance or a risk of re-offense so the court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.~~

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

~~(3)(2) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.~~

~~(b)(1) Except as provided in subdivision (2) of this subsection, a judge may request that a pretrial services coordinator perform a risk assessment that assesses risk of flight for a person who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.~~

~~(2) A person charged with an offense for which registration as a sex offender is required pursuant to chapter 167, subchapter 3 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.~~

(3) Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

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

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

(6) Any person charged with a criminal offense ~~or~~ a person who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a person 18 years of age or older who is the subject of a delinquency petition pursuant to 33 V.S.A. § 5201, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, the court may order a person who is eligible to engage with a pretrial services coordinator under subdivision (b)(6) of this section to do the following:

(A) meet with a pretrial services coordinator on a schedule set by the court;

(B) participate in a needs screening with a pretrial services coordinator; and

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

(2) The court may order the person to engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the court, the person and his or her attorney, and the prosecutor.

(4) An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any conditions of release permitted by law and shall not limit the court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

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Sec. 2. PILOT PROJECT; DEPARTMENT OF CORRECTIONS

REPORT TO COURT; PROBATION CONDITIONS

(a) The Department of Corrections, in consultation with the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General, shall establish a pilot project to provide the court with a report prior to the sentencing of any defendant to a term of probation for a felony pursuant to 28 V.S.A. § 205. The report shall be designed to assist the court in setting probation conditions and shall include the defendant's risk and needs assessment results, mental health and substance use disorder screening results, and criminal history.

(b) The Department, the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General shall jointly select one or two units in the Criminal Division

for participation in the pilot project established by this section. On or before December 1, 2022, the Department shall report the results of the pilot project to the Joint Legislative Justice Oversight Committee. The report shall recommend whether the pilot project should be made permanent throughout the State.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.