

1 H.249

2 Introduced by Representatives Grad of Moretown and Rachelson of

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Criminal procedures; sentencing; treatment court

7 Statement of purpose of bill as introduced: This bill proposes to create a  
8 presumption that prosecuting attorneys refer to treatment dockets offenders  
9 screened as having high prognostic risk and high criminogenic needs who are  
10 alleged to have committed an offense associated with a substance use disorder.

11 An act relating to presumptive diversion to treatment court

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

13 Sec. 1. 13 V.S.A. § 7030 is amended to read:

14 § 7030. SENTENCING ALTERNATIVES

15 (a) In determining which of the following should be ordered, the court shall  
16 consider the nature and circumstances of the crime, the history and character of  
17 the defendant, the need for treatment, and the risk to self, others, and the  
18 community at large presented by the defendant:

19 (1) A deferred sentence pursuant to section 7041 of this title.

1           (2) Referral to a community reparative board pursuant to 28 V.S.A.  
2 chapter 12 in the case of an offender who has pled guilty to a nonviolent  
3 felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the  
4 subject areas prohibited for referral to a community justice center under  
5 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this  
6 subdivision does not require the court to place the offender on probation. The  
7 offender shall return to court for further sentencing if the reparative board does  
8 not accept the case or if the offender fails to complete the reparative board  
9 program to the satisfaction of the board in a time deemed reasonable by the  
10 board.

11           (3) Probation pursuant to 28 V.S.A. § 205.

12           (4) Supervised community sentence pursuant to 28 V.S.A. § 352.

13           (5) Sentence of imprisonment.

14           (6)(A) The prosecuting attorney shall refer to a post-plea adult drug  
15 docket or DUI treatment docket an offender:

16                   (i) charged with a new criminal offense or a violation of  
17 conditions of a probationary sentence, where the offense is associated with a  
18 substance use disorder; and

19                   (ii) screened with a validated instrument by a treatment docket  
20 coordinator as having a high prognostic risk and high criminogenic needs.

1           (B) An offender charged with a crime pursuant to this subdivision (6)  
2           shall be presumed eligible for participation in a treatment docket unless the  
3           prosecutor, after consultation with the victim, states on the record why a  
4           referral to the program would not serve the ends of justice because:

5                   (i) evidence demonstrates that the individual cannot be managed  
6                   safely or effectively in a treatment docket; or

7                   (ii) adequate treatment is not available to the offender in the  
8                   treatment docket's jurisdiction.

9           (C) Referrals to determine eligibility may be made by the court,  
10           defense counsel, or the State within 90 days following arraignment, but a  
11           person shall not be deemed ineligible if a referral is made after 90 days from  
12           arraignment.

13           (D) If an offender is found eligible for a treatment docket pursuant to  
14           subdivision (6)(A) of this subsection (a) but a treatment docket is not available  
15           in the county of the offense, the court shall consider a motion to transfer venue  
16           to a county with a treatment docket.

17           (b) When ordering a sentence of probation, the court may require  
18           participation in the Restorative Justice Program established by 28 V.S.A.  
19           chapter 12 as a condition of the sentence.

20           Sec. 2. EFFECTIVE DATE

21           This act shall take effect on July 1, 2021.