

1 H.581

2 Introduced by Representative Sibia of Dover

3 Referred to Committee on

4 Date:

5 Subject: Crimes; criminal procedure; bail; conditions of release

6 Statement of purpose of bill as introduced: This bill proposes to expand the
7 mechanisms to hold offenders accountable for violations of conditions of
8 release. Specifically, this bill proposes to lift the \$200.00 cap on bail for
9 persons who commit a new offense while on pretrial release; explicitly permits
10 a court to consider whether a person is subject to pretrial release community
11 supervision and is compliant with current court orders when setting conditions
12 of release; and amends the definition of flight from prosecution.

13 An act relating to bail and violations of conditions of release

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

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

16 § 7554. RELEASE PRIOR TO TRIAL

17 (a) Release; conditions of release. Any person charged with an offense,
18 other than a person held without bail under section 7553 or 7553a of this title,
19 shall at ~~his or her~~ the person's appearance before a judicial officer be ordered
20 released pending trial in accordance with this section.

1 (1) The defendant shall be ordered released on personal recognizance or
2 upon the execution of an unsecured appearance bond in an amount specified by
3 the judicial officer unless the judicial officer determines that such a release will
4 not reasonably mitigate the risk of flight from prosecution as required. In
5 determining whether the defendant presents a risk of flight from prosecution,
6 the judicial officer shall consider, in addition to any other factors, the
7 seriousness of the offense charged and the number of offenses with which the
8 person is charged. If the judicial officer determines that the defendant presents
9 a risk of flight from prosecution, the officer shall, either in lieu of or in
10 addition to the methods of release in this section, impose the least restrictive of
11 the following conditions or the least restrictive combination of the following
12 conditions that will reasonably mitigate the risk of flight ~~of~~ from prosecution
13 by the defendant as required:

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

18 (B) Place restrictions on the travel ~~or~~ association, or place of abode
19 of the defendant during the period of release.

20 (C) Require the defendant to participate in an alcohol or drug
21 treatment program. The judicial officer shall take into consideration the

1 defendant's ability to comply with an order of treatment and the availability of
2 treatment resources.

3 (D) Upon consideration of the defendant's financial means, require
4 the execution of a secured appearance bond in a specified amount and the
5 deposit with the clerk of the court, in cash or other security as directed, of a
6 sum not to exceed 10 percent of the amount of the bond, such deposit to be
7 returned upon the appearance of the defendant as required.

8 (E) Upon consideration of the defendant's financial means, require
9 the execution of a surety bond with sufficient solvent sureties, or the deposit of
10 cash in lieu thereof.

11 (F) Impose any other condition found reasonably necessary to
12 mitigate the risk of flight from prosecution as required, including a condition
13 requiring that the defendant return to custody after specified hours.

14 (G) [Repealed.]

15 (2) If the judicial officer determines that conditions of release imposed
16 to mitigate the risk of flight from prosecution will not reasonably protect the
17 public, the judicial officer may impose, in addition, the least restrictive of the
18 following conditions or the least restrictive combination of the following
19 conditions that will reasonably ensure protection of the public:

20 (A) Place the defendant in the custody of a designated person or
21 organization agreeing to supervise ~~him or her~~ the defendant if the defendant is

1 charged with an offense that is not a nonviolent misdemeanor or nonviolent
2 felony as defined in 28 V.S.A. § 301.

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

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

9 (D) Impose any other condition found reasonably necessary to
10 protect the public, except that a physically restrictive condition may only be
11 imposed in extraordinary circumstances.

12 (E) Suspend the officer's duties in whole or in part if the defendant is
13 a State, county, or municipal officer charged with violating section 2537 of this
14 title and the court finds that it is necessary to protect the public.

15 (F) [Repealed.]

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

20 (b) Judicial considerations in imposing conditions of release. In
21 determining which conditions of release to impose:

1 (1) In subdivision (a)(1) of this section, the judicial officer, on the basis
2 of available information, shall take into account the nature and circumstances
3 of the offense charged; the weight of the evidence against the accused; the
4 accused's employment; financial resources, including the accused's ability to
5 post bail; the accused's character and mental condition; the accused's length of
6 residence in the community; and the accused's record of appearance at court
7 proceedings or of flight ~~to avoid~~ from prosecution or failure to appear at court
8 proceedings.

9 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis
10 of available information, shall take into account the nature and circumstances
11 of the offense charged; the weight of the evidence against the accused; ~~and~~ the
12 accused's family ties, employment, character and mental condition, length of
13 residence in the community, record of convictions, and record of appearance at
14 court proceedings or of flight ~~to avoid~~ from prosecution or failure to appear at
15 court proceedings; whether the accused is subject to release on personal
16 recognizance or subject to conditions of release prior to trial, sentencing, or
17 appeal in another case pending before federal or state court; whether the
18 accused is on probation, parole, furlough, or some other form of community
19 supervision in another case adjudicated before a federal or state court; and
20 whether the accused is currently compliant with any standing court orders.
21 Recent history of actual violence or threats of violence may be considered by

1 the judicial officer as bearing on the character and mental condition of the
2 accused.

3 (c) Order. A judicial officer authorizing the release of a person under this
4 section 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~~ the person
7 that a warrant for ~~his or her~~ the person's arrest will be issued immediately upon
8 any such violation.

9 (d) Review of conditions.

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

1 (2) A person for whom conditions of release are imposed shall, within
2 five working days following application, be entitled to have the conditions
3 reviewed by a judge in the court having original jurisdiction over the offense
4 charged. A person applying for review shall be given the opportunity for a
5 hearing. Unless the conditions of release are amended as requested, the judge
6 shall set forth in writing or orally on the record a reasonable basis for
7 continuing the conditions imposed. In the event that a judge in the court
8 having original jurisdiction over the offense charged is not available, any
9 Superior judge may review such conditions.

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

14 (f) Definition. The term “judicial officer” as used in this section and
15 section 7556 of this title ~~shall mean~~ means a clerk of a Superior Court or a
16 Superior Court judge.

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

1 (h) Forfeiture. Nothing contained in this section shall be construed to
2 prevent the disposition of any case or class of cases by forfeiture of collateral
3 security if such disposition is authorized by the court.

4 (i) Forms. The Court Administrator shall establish forms for appearance
5 bonds, secured appearance bonds, surety bonds, and for use in the posting of
6 bail. Each form shall include the following information:

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

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

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

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

18 Sec. 2. 13 V.S.A. § 7576 is amended to read:

19 § 7576. DEFINITIONS

20 As used in this chapter:

21 * * *

1 (9) “Flight from prosecution” means any action or behavior undertaken
2 by a person charged with a criminal offense to avoid court proceedings,
3 including noncompliance with court orders and failures to appear at court
4 hearings.

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on July 1, 2024.