

1 H.670

2 Introduced by Representatives Harrison of Chittenden, Burditt of West
3 Rutland, Canfield of Fair Haven, Clifford of Rutland City,
4 Howard of Rutland City, Jerome of Brandon, Maguire of
5 Rutland City, McCoy of Poultney, Peterson of Clarendon,
6 Sammis of Castleton, and Shaw of Pittsford

7 Referred to Committee on

8 Date:

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

10 Statement of purpose of bill as introduced: This bill proposes to change the
11 parameters and enforcement of bail and conditions of release. Specifically,
12 this bill proposes to lift the \$200.00 cap on bail for violations of court orders
13 related to bail and conditions of release and for failures to appear at court
14 proceedings. This bill also proposes to broaden the scope of factors a court can
15 consider in setting conditions of release, including whether a person is already
16 released on another pending charge, whether the person is already subject to a
17 form of community supervision, and whether the person is compliant with any
18 standing court orders. This bill further proposes to create a bail jumping
19 statute as another criminal offense a person can be charged with for failing to
20 appear at court proceedings and lowers the evidentiary standard for weight of

1 the evidence hearings to ensure that they proceed in the same manner and with
2 the same evidence permitted in other bail hearings.

3 An act relating to the scope and enforcement of bail and conditions of
4 release

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

6 Sec. 1. 13 V.S.A. chapter 229 is amended to read:

7 CHAPTER 229. BAIL AND RECOGNIZANCES

8 § 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND
9 APPEARANCE BONDS

10 * * *

11 (b) Limitation on imposition of bail, secured appearance bonds, and
12 appearance bonds.

13 (1) Except as provided in subdivision (2) of this subsection, no bail,
14 secured appearance bond, or appearance bond may be imposed:

15 (A) at the initial appearance of a person charged with a misdemeanor
16 if the person was cited for the offense in accordance with Rule 3 of the
17 Vermont Rules of Criminal Procedure; or

18 (B) at the initial appearance or upon the temporary release pursuant
19 to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged

1 with a violation of a misdemeanor offense that is eligible for expungement
2 pursuant to subdivision 7601(4)(A) of this title.

3 (2) In the event the court finds that imposing bail is necessary to
4 mitigate the risk of flight from prosecution for a person charged with a
5 violation of a misdemeanor offense that is eligible for expungement pursuant
6 to subdivision 7601(4)(A) of this title, the court may impose bail in a
7 maximum amount of \$200.00. The \$200.00 limit shall not apply to a person
8 charged with a violation of a court order pursuant to section 7554 of this title, a
9 person charged with a bail jumping violation pursuant to section 7558 of this
10 title, or a person who fails to appear at a court hearing.

11 (3) This subsection shall not be construed to restrict the court's ability to
12 impose conditions on such persons to reasonably mitigate the risk of flight
13 from prosecution or to reasonably protect the public in accordance with section
14 7554 of this title.

15 * * *

16 § 7553a. ACTS OF VIOLENCE; DENIAL OF RELEASE ON BAIL

17 (a) A person charged with an offense that is a felony, an element of which
18 involves an act of violence against another person, may be held without bail
19 when the evidence of guilt is great and the court finds, based upon clear and
20 convincing evidence, that the person's release poses a substantial threat of

1 physical violence to any person and that no condition or combination of
2 conditions of release will reasonably prevent the physical violence.

3 (b) Information stated in, or offered in connection with, any order entered
4 pursuant to this section need not conform to the rules pertaining to the
5 admissibility of evidence in a court of law. Nothing in this subsection shall be
6 construed to alter the existing standard applied to determine whether evidence
7 of guilt is great under this section.

8 * * *

9 § 7554. RELEASE PRIOR TO TRIAL

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

14 (1) The defendant shall be ordered released on personal recognizance or
15 upon the execution of an unsecured appearance bond in an amount specified by
16 the judicial officer unless the judicial officer determines that such a release will
17 not reasonably mitigate the risk of flight from prosecution as required. In
18 determining whether the defendant presents a risk of flight from prosecution,
19 the judicial officer shall consider, in addition to any other factors, the
20 seriousness of the offense charged and the number of offenses with which the
21 person is charged. If the judicial officer determines that the defendant presents

1 a risk of flight from prosecution, the officer shall, either in lieu of or in
2 addition to the methods of release in this section, impose the least restrictive of
3 the following conditions or the least restrictive combination of the following
4 conditions that will reasonably mitigate the risk of flight of the defendant as
5 required:

6 * * *

7 (2) If the judicial officer determines that conditions of release imposed
8 to mitigate the risk of flight from prosecution will not reasonably protect the
9 public, the judicial officer may impose, in addition, the least restrictive of the
10 following conditions or the least restrictive combination of the following
11 conditions that will reasonably ensure protection of the public:

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

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

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

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

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

7 (F) [Repealed.]

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

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

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

1 dates of such proceedings or voluntarily appear within 30 days after any
2 required date.

3 (b) A person who violates subsection (a) of this section in connection with
4 the prosecution of a misdemeanor shall be imprisoned not more than one year
5 or fined not more than \$1,000.00, or both.

6 (c) A person who violates subsection (a) of this section in connection with
7 the prosecution of a felony shall be imprisoned not more than two years or
8 fined not more than \$5,000.00, or both.

9 (d) It shall be a rebuttable presumption that notice is served on a person
10 when notice is sent to the person's attorney of record or to the person's address
11 of record.

12 (e) It shall be an affirmative defense to a charge under this section that:

13 (1) the person's failure to appear on the required date or within 30 days
14 thereafter was unavoidable and due to circumstances beyond the person's
15 control; and

16 (2) during the period extending from the expiration of the 30-day period
17 to the commencement of the action, the person either:

18 (A) appears voluntarily as soon as the person was able to do so; or

19 (B) although the person did not appear, such failure of appearance
20 was unavoidable and due to circumstances beyond the person's control.

21 * * *

1 Sec. 2. EFFECTIVE DATE

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