

1 S.195

2 An act relating to how a defendant's criminal record is considered in
3 imposing conditions of release

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

5 Sec. 1. 13 V.S.A. § 7551 is amended to read:

6 § 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND
7 APPEARANCE BONDS

8 (a) Bonds; generally. A bond given by a person charged with a criminal
9 offense or by a witness in a criminal prosecution under section 6605 of this
10 title, conditioned for the appearance of the person or witness before the court
11 in cases where the offense is punishable by fine or imprisonment, and in
12 appealed cases, shall be taken to the Criminal Division of the Superior Court
13 where the prosecution is pending and shall remain binding upon parties until
14 discharged by the court or until sentencing. The person or witness shall appear
15 at all required court proceedings.

16 (b) Limitation on imposition of bail, secured appearance bonds, and
17 appearance bonds.

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

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

1 (B) at the initial appearance or upon the temporary release pursuant
2 to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged
3 with a violation of a misdemeanor offense that is eligible for expungement
4 pursuant to subdivision 7601(4)(A) of this title.

5 (2) In the event the court finds that imposing bail is necessary to
6 mitigate the risk of flight from prosecution for a person charged with a
7 violation of a misdemeanor offense that is eligible for expungement pursuant
8 to subdivision 7601(4)(A) of this title, the court may impose bail in a
9 maximum amount of \$200.00. The \$200.00 limit shall not apply to an offense
10 allegedly committed by a defendant who has been released on personal
11 recognizance or conditions of release pending trial for another offense.

12 (3) This subsection shall not be construed to restrict the court's ability to
13 impose conditions on such persons to reasonably mitigate the risk of flight
14 from prosecution or to reasonably protect the public in accordance with section
15 7554 of this title.

16 Sec. 2. 13 V.S.A. § 7554 is amended to read:

17 § 7554. RELEASE PRIOR TO TRIAL

18 (a) Release; conditions of release. Any person charged with an offense,
19 other than a person held without bail under section 7553 or 7553a of this title,
20 shall at ~~his or her~~ the person's appearance before a judicial officer be ordered
21 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; the number of offenses with which the
8 person is charged; whether, at the time of the current offense or arrest, the
9 defendant was released on conditions or personal recognizance, on probation,
10 furlough, parole, or other release pending trial, sentencing, appeal, or
11 completion of a sentence for an offense under federal or state law; and
12 whether, in connection with a criminal prosecution, the defendant is compliant
13 with court orders or has failed to appear at a court hearing. If the judicial
14 officer determines that the defendant presents a risk of flight from prosecution,
15 the officer shall, either in lieu of or in addition to the methods of release in this
16 section, impose the least restrictive of the following conditions or the least
17 restrictive combination of the following conditions that will reasonably
18 mitigate the risk of flight of the defendant as required:

19 (A) Place the defendant in the custody of a designated person or
20 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 or association of the defendant
4 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) Upon consideration of the defendant's financial means, require
10 the execution of a secured appearance bond in a specified amount and the
11 deposit with the clerk of the court, in cash or other security as directed, of a
12 sum not to exceed 10 percent of the amount of the bond, such deposit to be
13 returned upon the appearance of the defendant as required.

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

17 (F) Impose any other condition found reasonably necessary to
18 mitigate the risk of flight as required, including a condition requiring that the
19 defendant return to custody after specified hours.

20 (G) [Repealed.]

1 (H) Place the defendant in the pretrial supervision program pursuant
2 to section 7555 of this title, provided that the defendant meets the criteria
3 identified in subdivision 7551(c)(1) of this title.

4 (I) Place the defendant in the home detention program pursuant to
5 section 7554b of this title.

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

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

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

17 (C) Require the defendant to participate in an alcohol or drug
18 treatment program. The judicial officer shall take into consideration the
19 defendant's ability to comply with an order of treatment and the availability of
20 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 (G) Place the defendant in the pretrial supervision program pursuant
9 to section 7555 of this title, provided that the defendant meets the criteria
10 identified in subdivision 7551(c)(1) of this title.

11 (H) Place the defendant in the home detention program pursuant to
12 section 7554b of this title.

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

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

19 (1) In subdivision (a)(1) of this section, the judicial officer, on the basis
20 of available information, shall take into account the nature and circumstances
21 of the offense charged; the weight of the evidence against the accused; the

1 accused's employment; financial resources, including the accused's ability to
2 post bail; the accused's character and mental condition; the accused's length of
3 residence in the community; and the accused's record of appearance at court
4 proceedings or of flight to avoid prosecution or failure to appear at court
5 proceedings.

6 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis
7 of available information, shall take into account the nature and circumstances
8 of the offense charged; the weight of the evidence against the accused; the
9 accused's family ties, employment, character and mental condition, length of
10 residence in the community, record of convictions, and record of appearance at
11 court proceedings or of flight to avoid prosecution or failure to appear at court
12 proceedings; whether, at the time of the current offense or arrest, the defendant
13 was released on conditions or personal recognizance, on probation, furlough,
14 parole, or other release pending trial, sentencing, appeal, or completion of a
15 sentence for an offense under federal or state law; and whether, in connection
16 with a criminal prosecution, the defendant is compliant with court orders or has
17 failed to appear at a court hearing. Recent history of actual violence or threats
18 of violence may be considered by the judicial officer as bearing on the
19 character and mental condition of the accused.

20 (c) Order. A judicial officer authorizing the release of a person under this
21 section shall issue an appropriate order containing a statement of the conditions

1 imposed, if any; shall inform such person of the penalties applicable to
2 violations of the conditions of release; and shall advise ~~him or her~~ the person
3 that a warrant for ~~his or her~~ the person's arrest ~~will~~ may be issued immediately
4 upon any such violation.

5 (d) Review of conditions.

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

18 (2) A person for whom conditions of release are imposed shall, within
19 five working days following application, be entitled to have the conditions
20 reviewed by a judge in the court having original jurisdiction over the offense
21 charged. A person applying for review shall be given the opportunity for a

1 hearing. Unless the conditions of release are amended as requested, the judge
2 shall set forth in writing or orally on the record a reasonable basis for
3 continuing the conditions imposed. In the event that a judge in the court
4 having original jurisdiction over the offense charged is not available, any
5 Superior judge may review such conditions.

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

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

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

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

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

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

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

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

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

12 Sec. 3. 13 V.S.A. § 7554b is amended to read:

13 § 7554b. HOME DETENTION PROGRAM

14 (a) Intent. It is the intent of the General Assembly that the Home Detention
15 Program be designed to provide an alternative to incarceration and reduce the
16 number of detainees at Vermont correctional facilities by accommodating
17 defendants who would otherwise be incarcerated or pose a significant risk to
18 public safety.

19 (b) Definition. As used in this section, "home detention" means a program
20 of confinement and supervision that restricts a defendant to a preapproved
21 residence continuously, except for authorized absences, and is enforced by

1 appropriate means of surveillance and electronic monitoring by the Department
2 of Corrections, including the use of passive electronic monitoring. The court
3 may authorize scheduled absences such as for work, school, or treatment. Any
4 changes in the schedule shall be solely at the discretion of the Department of
5 Corrections. A defendant who is on home detention shall remain in the
6 custody of the Commissioner of Corrections with conditions set by the court.

7 ~~(b)(c) Procedure~~ Defendants with the inability to pay bail.

8 (1) Procedure. At the request of the court, the Department of
9 Corrections, the prosecutor, or the defendant, the status of a defendant who is
10 detained pretrial in a correctional facility for inability to pay bail after bail has
11 been set by the court may be reviewed by the court to determine whether the
12 defendant is appropriate for home detention. The review shall be scheduled
13 upon the court's receipt of a report from the Department determining that the
14 proposed residence is suitable for the use of electronic monitoring. A
15 defendant held without bail pursuant to section 7553 or 7553a of this title shall
16 not be eligible for release to the Home Detention Program on or after June 1,
17 2018. At arraignment or after a hearing, the court may order that the defendant
18 be released to the Home Detention Program, provided that the court finds
19 placing the defendant on home detention will reasonably ~~assure his or her~~
20 ~~appearance in court when required~~ mitigate the defendant's risk of flight and

1 the proposed residence is appropriate for home detention. In making such a
2 determination, the court shall consider:

3 ~~(1)~~(A) the nature of the offense with which the defendant is charged;

4 ~~(2)~~(B) the defendant's prior convictions, history of violence, medical
5 and mental health needs, history of supervision, and risk of flight; and

6 ~~(3)~~(C) any risk or undue burden to other persons who reside at the
7 proposed residence or risk to third parties or to public safety that may result
8 from such placement.

9 ~~(e)~~(2) Failure to comply. The Department of Corrections may revoke a
10 defendant's home detention status for an unauthorized absence or failure to
11 comply with any other condition of the Program and shall return the defendant
12 to a correctional facility.

13 (d) Defendants who violate conditions of release.

14 (1) Procedure. At the request of the court, the prosecutor, or the
15 defendant, the status of a defendant who has allegedly violated conditions of
16 release may be reviewed by the court to determine whether the defendant is
17 appropriate for home detention. The review shall be scheduled upon the
18 court's receipt of a report from the Department determining that the proposed
19 residence is suitable for the use of electronic monitoring. A defendant held
20 without bail pursuant to section 7553 or 7553a of this title shall not be eligible
21 for release to the Home Detention Program on or after June 1, 2024. At

1 arraignment or after a hearing, the court may order that the defendant be
2 released to the Home Detention Program upon the court's finding that the
3 defendant poses a significant risk to public safety, placing the defendant on
4 home detention will reasonably mitigate such risk, and the proposed residence
5 is appropriate for home detention. In making such a determination, the court
6 shall consider the factors listed in subdivisions (c)(1)(A)–(C) of this section.

7 (2) Failure to comply. The Department of Corrections may report a
8 defendant's unauthorized absence or failure to comply with any other
9 condition of the Program to the prosecutor and the defendant, provided that a
10 defendant's failure to comply with any condition of the Program for a reason
11 other than fault on the part of the defendant shall not be reportable. To address
12 a reported violation, the prosecutor may request:

13 (A) a review of conditions pursuant to section 7554 of this title;

14 (B) a prosecution for contempt pursuant to section 7559 of this title;

15 or

16 (C) a bail revocation hearing pursuant to section 7575 of this title.

17 (e) Credit for time served. A defendant shall receive credit for a sentence
18 of imprisonment for time served in the Home Detention Program.

19 (f) Program support. The Department may support the monitoring
20 operations of the Program through grants of financial assistance to, or contracts
21 for services with, any public entity that meets the Department's requirements.

1 (g) Policies and procedures. The Department of Corrections shall establish
2 written policies and procedures for the Home Detention Program to be used by
3 the Department, any contractors or grantees that the Department engages with
4 to assist with the monitoring operations of the Program, and to assist the courts
5 in understanding the Program.

6 Sec. 4. 13 V.S.A. § 7555 is added to read:

7 § 7555. PRETRIAL SUPERVISION PROGRAM

8 (a) Purpose. The purpose of the Pretrial Supervision Program is to assist
9 eligible people through the use of evidence-based strategies to improve pretrial
10 compliance with conditions of release, to coordinate and support the provision
11 of pretrial services when appropriate, to ensure attendance at court
12 appearances, and to decrease the potential to recidivate while awaiting trial.

13 (b) Definition. As used in this section, “absconded” has the same meaning
14 as “absconding” as defined in 28 V.S.A. § 722(1)(B)–(C).

15 (c) Pretrial supervision.

16 (1) Except as provided in subsection (g) of this section, beginning on
17 January 1, 2025, the Pretrial Supervision Program shall, if ordered by the court
18 pursuant to subsection (d) of this section, monitor defendants who have been
19 charged with violating a condition of release pursuant to section 7559 of this
20 title or have not fewer than five pending dockets and pose a risk of

1 nonappearance at court hearings, a risk of flight, or a risk of endangering the
2 public.

3 (2) The Department shall assign a pretrial supervision officer to monitor
4 defendants in a designated region of Vermont and help coordinate any pretrial
5 services needed by the defendant. The Department shall determine the
6 appropriate level of supervision using evidence-based screenings of those
7 defendants eligible to be placed in the Program. The Department's supervision
8 levels may include use of:

9 (A) the Department's telephone monitoring system;

10 (B) telephonic meetings with a pretrial supervision officer;

11 (C) in-person meetings with a pretrial supervision officer;

12 (D) electronic monitoring; or

13 (E) any other means of contact deemed appropriate.

14 (3) When placing a defendant into the Program pursuant to subsection
15 (d) of this section, the court shall issue an order that sets the defendant's level
16 of supervision based on the recommendations submitted by the Department of
17 Corrections.

18 (d) Procedure.

19 (1) At arraignment or at a subsequent hearing, the prosecutor or the
20 defendant may move, or on the court's own motion, that the defendant be
21 reviewed by the court to determine whether the defendant is appropriate for

1 pretrial supervision. The review shall be scheduled upon the court's receipt of
2 a report from the Department of Corrections containing recommendations
3 pertaining to the defendant's supervision level.

4 (2) A defendant is eligible for pretrial supervision if the person has:

5 (A) violated conditions of release pursuant to section 7559 of this
6 title; or

7 (B) not fewer than five pending court dockets.

8 (3) After a hearing and review of the Department of Corrections' report
9 containing the defendant's supervision level recommendations, the court may
10 order that the defendant be released to the Pretrial Supervision Program,
11 provided that the court finds placing the defendant under pretrial supervision
12 will reasonably ensure the person's appearance in court when required, will
13 reasonably mitigate the risk of flight, or reasonably ensure protection of the
14 public. In making such a determination, the court shall consider the following:

15 (A) the nature of the violation of conditions of release pursuant to
16 section 7559 of this title;

17 (B) the nature and circumstances of the underlying offense or
18 offenses with which the defendant is charged;

19 (C) the defendant's prior convictions, history of violence, medical
20 and mental health needs, history of supervision, and risk of flight;

1 (D) any risk or undue burden to third parties or risk to public safety
2 that may result from the placement; or

3 (E) any other factors that the court deems appropriate.

4 (e) Compliance and review.

5 (1) Pretrial supervision officers shall notify the prosecutor and use
6 reasonable efforts to notify the defendant of any violations of court-imposed
7 Program conditions committed by the defendant.

8 (2) Pretrial supervision officers may notify the prosecutor and use
9 reasonable efforts to notify the defendant of any violations of Department-
10 imposed administrative conditions committed by the defendant.

11 (3) Upon the motion of the prosecutor or the defendant, or on the court's
12 own motion, a defendant's compliance with pretrial supervision conditions
13 may be reviewed by the court.

14 (4) Upon submission of the pretrial supervision officer's sworn affidavit
15 by the prosecutor, the court may issue a warrant for the arrest of a defendant
16 who fails to report to the pretrial supervision officer, commits multiple
17 violations of supervision requirements, or has absconded.

18 (f) Policies and procedures.

19 (1) On or before November 1, 2024, the Department of Corrections shall
20 establish written policies and procedures for the Pretrial Supervision Program
21 to be used by the Department and any contractors or grantees that the

1 Department engages with to assist in the monitoring operations of the Program
2 and to assist the courts in understanding the Program.

3 (2) The Department shall develop policies and procedures concerning
4 supervision levels, evidence-based criteria for each supervision level, and the
5 means of contact that is appropriate for each supervision level.

6 (g) Contingent on funding. The Pretrial Supervision Program established
7 in this section shall operate only to the extent funds are appropriated for its
8 operation. If the Program is not operating in a particular county, the courts
9 shall not order pretrial supervision as a condition of release in accordance with
10 section 7554 of this title.

11 (h) Program support. The Department may support the operation of the
12 Program through grants of financial assistance to, or contracts for services
13 with, any public entity that meets the Department's requirements.

14 Sec. 5. 13 V.S.A. § 7559 is amended to read:

15 § 7559. ~~RELEASE; DESIGNATION; SANCTIONS~~ VIOLATIONS OF
16 CONDITIONS OF RELEASE; FAILURE TO APPEAR;
17 WARRANTLESS ARREST

18 ~~(a) The officer in charge of a facility under the control of the department of~~
19 ~~corrections, county jail or a local lockup shall discharge any person held by~~
20 ~~him or her upon receipt of an order for release issued by a judicial officer~~
21 ~~pursuant to section 7554 of this title, accompanied by the full amount of any~~

1 ~~bond or cash bail fixed by the judicial officer. The officer in charge, or a~~
2 ~~person designated by the Court Administrator, shall issue a receipt for such~~
3 ~~bond or cash bail, and shall account for and turn over such bond or cash bail to~~
4 ~~the court having jurisdiction~~ The State's Attorney may commence a
5 prosecution for criminal contempt under Rule 42 of the Vermont Rules of
6 Criminal Procedure against a person who violates a condition of release
7 imposed under section 7554 of this title. The maximum penalty that may be
8 imposed under this section shall be a fine of \$1,000.00 or imprisonment for six
9 months, or both.

10 (b) ~~The Court Administrator shall designate persons to set bail for any~~
11 ~~person under arrest prior to arraignment when the offense charged provides for~~
12 ~~a penalty of less than two years imprisonment or a fine of less than \$1,000.00~~
13 ~~or both. Such persons designated by the Court Administrator shall be~~
14 ~~considered judicial officers for the purposes of sections 7554 and 7556 of this~~
15 ~~title~~ Upon commencement of a prosecution for criminal contempt, including
16 when considering an afterhours request to set temporary conditions or impose
17 bail for criminal contempt, or upon the initial appearance of the person to
18 answer such offense, in accordance with section 7553, 7553a, 7554, or 7575 of
19 this title, a judicial officer may continue or modify existing conditions of
20 release or terminate release of the person.

1 (c) ~~Any person who is designated by the Court Administrator under~~
2 ~~subsection (b) of this section, may refuse the designation by so notifying the~~
3 ~~Court Administrator in writing within seven days of the designation~~ A person
4 who has been released pursuant to section 7554 of this title with or without bail
5 on condition that the person appear at a specified time and place in connection
6 with a prosecution for an offense and who without just cause fails to appear
7 shall be imprisoned not more than two years or fined not more than \$5,000.00,
8 or both.

9 (d) ~~A person who has been released pursuant to section 7554 of this title~~
10 ~~with or without bail on condition that he or she appear at a specified time and~~
11 ~~place in connection with a prosecution for an offense and who without just~~
12 ~~cause fails to appear shall be imprisoned not more than two years or fined not~~
13 ~~more than \$5,000.00, or both~~ Notwithstanding Rule 3 of the Vermont Rules
14 of Criminal Procedure, a law enforcement officer may arrest a person without a
15 warrant when the officer has probable cause to believe the person without just
16 cause has failed to appear at a specified time and place in connection with a
17 prosecution for an offense or has violated a condition of release relating to a
18 restriction on travel or a condition of release that the person not directly
19 contact, harass, or cause to be harassed a victim or potential witness.

20 (e) ~~The State's Attorney may commence a prosecution for criminal~~
21 ~~contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a~~

1 ~~person who violates a condition of release imposed under section 7554 of this~~
2 ~~title. The maximum penalty that may be imposed under this subsection shall~~
3 ~~be a fine of \$1,000.00 or imprisonment for six months, or both. Upon~~
4 ~~commencement of a prosecution for criminal contempt, the court shall review,~~
5 ~~in accordance with section 7554 of this title, and may continue or modify~~
6 ~~conditions of release or terminate release of the person. [Repealed.]~~

7 (f) ~~Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a~~
8 ~~law enforcement officer may arrest a person without a warrant when the officer~~
9 ~~has probable cause to believe the person without just cause has failed to appear~~
10 ~~at a specified time and place in connection with a prosecution for an offense or~~
11 ~~has violated a condition of release relating to a restriction on travel or a~~
12 ~~condition of release that he or she not directly contact, harass, or cause to be~~
13 ~~harassed a victim or potential witness. [Repealed.]~~

14 Sec. 6. 13 V.S.A. § 7559a is added to read:

15 § 7559a. RELEASE; DESIGNATION

16 (a) The officer in charge of a facility under the control of the department of
17 corrections shall discharge any person held by the officer upon receipt of an
18 order for release issued by a judicial officer pursuant to section 7554 of this
19 title, accompanied by the full amount of any bond or cash bail fixed by the
20 judicial officer. The officer in charge, or a person designated by the Court

1 Administrator, shall issue a receipt for such bond or cash bail and shall account
2 for and turn over such bond or cash bail to the court having jurisdiction.

3 (b) The Court Administrator shall designate persons to set bail for any
4 person under arrest prior to arraignment when the offense charged provides for
5 a penalty of less than two years imprisonment or a fine of not more than
6 \$1,000.00, or both. Such persons designated by the Court Administrator shall
7 be considered judicial officers for the purposes of sections 7554 and 7556 of
8 this title.

9 (c) Any person who is designated by the Court Administrator under
10 subsection (b) of this section may refuse the designation by so notifying the
11 Court Administrator in writing within seven days of the designation.

12 Sec. 7. COMMUNITY RESTITUTION; INTENT

13 It is the intent of the General Assembly that the Department of Corrections
14 reinstitute the Community Restitution Program and ensure that it is
15 appropriately staffed and resourced so that it may be offered in all 14 counties
16 as a sentencing alternative.

17 Sec. 8. 13 V.S.A. § 7030 is amended to read:

18 § 7030. SENTENCING ALTERNATIVES

19 (a) In determining which of the following should be ordered, the court shall
20 consider the nature and circumstances of the crime; the history and character of
21 the defendant; the defendant's family circumstances and relationships; the

1 impact of any sentence upon the defendant's minor children; the need for
2 treatment; any noncompliance with court orders or failures to appear in
3 connection with a criminal prosecution; and the risk to self, others, and the
4 community at large presented by the defendant:

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

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

16 (3) Community restitution pursuant to a policy adopted by the
17 Commissioner of Corrections.

18 (4) Probation pursuant to 28 V.S.A. § 205.

19 ~~(4)~~(5) Supervised community sentence pursuant to 28 V.S.A. § 352.

20 ~~(5)~~(6) Sentence of imprisonment.

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

4 Sec. 9. 18 V.S.A. § 4253 is amended to read:

5 § 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A
6 DRUG

7 (a) A person who uses a firearm during and in relation to selling or
8 dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3),
9 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of
10 this title shall be imprisoned not more than three years or fined not more than
11 \$5,000.00, or both, in addition to the penalty for the underlying crime.

12 (b) A person who uses a firearm during and in relation to trafficking a
13 regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or
14 4234a(c) of this title shall be imprisoned not more than five years or fined not
15 more than \$10,000.00, or both, in addition to the penalty for the underlying
16 crime.

17 (c) For purposes of this section, “use of a firearm” ~~shall include~~ includes:

18 (1) using a firearm while selling or trafficking a regulated drug; and

19 (2) the exchange of firearms for drugs, and this section shall apply to the
20 person who trades a firearm for a drug and the person who trades a drug for a
21 firearm.

1 (d) Conduct constituting the offense of using a firearm while selling or
2 trafficking a regulated drug shall be considered a violent act for the purposes of
3 determining bail.

4 Sec. 10. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
5 PRETRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;
6 REPORT

7 (a) The Joint Legislative Justice Oversight Committee shall review the
8 Pretrial Supervision Program established pursuant to 13 V.S.A. § 7555. The
9 Committee shall review and provide recommendations to the Department of
10 Corrections for the most prudent use of any funds appropriated to the
11 Department to operate the Program. The review shall also include
12 recommendations concerning the geographic areas that the Department may
13 first implement the Program and future funding mechanisms for the Program.

14 (b) The Committee's recommendations pursuant to subsection (a) of this
15 section shall be submitted to the Department on or before September 1, 2024
16 and to the General Assembly on or before November 15, 2024.

17 Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES;
18 RECONSTITUTION; REPORT

19 (a) On or before January 1, 2025, the Corrections Monitoring Commission
20 shall conduct a review to identify what the Commission's needs are to operate,
21 including its structural challenges; recommendations of changes to the

1 membership of the Commission; the training necessary for members to operate
2 effectively as a Commission; and the resources necessary given its mandates
3 pursuant to 28 V.S.A. § 123.

4 (b) On or before January 15, 2025, the Commission shall present the results
5 of the review to the Senate Committee on Judiciary and the House Committee
6 on Corrections and Institutions.

7 Sec. 12. PROSPECTIVE REPEAL

8 13 V.S.A. § 7555 shall be repealed on December 31, 2030.

9 Sec. 13. EFFECTIVE DATE

10 This act shall take effect on passage.