

1 S.195

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

4 The House proposes to the Senate to amend the bill by striking out all after  
5 the enacting clause and inserting in lieu thereof the following:

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

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

8 APPEARANCE BONDS

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

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

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

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

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

8           (2) In the event the court finds that imposing bail is necessary to  
9 mitigate the risk of flight from prosecution for a person charged with a  
10 violation of a misdemeanor offense that is eligible for expungement pursuant  
11 to subdivision 7601(4)(A) of this title, the court may impose bail in a  
12 maximum amount of \$200.00. The \$200.00 limit shall not apply to a person  
13 who the court determines has engaged in flight from prosecution in accordance  
14 with subdivision 7576(9) or subdivision 7554(a)(1) of this title.

15           (3) This subsection shall not be construed to restrict the court's ability to  
16 impose conditions on such persons to reasonably mitigate the risk of flight  
17 from prosecution or to reasonably protect the public in accordance with section  
18 7554 of this title.

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

2 § 7554. RELEASE PRIOR TO TRIAL

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

7 (1) The defendant shall be ordered released on personal recognizance or  
8 upon the execution of an unsecured appearance bond in an amount specified by  
9 the judicial officer unless the judicial officer determines that such a release will  
10 not reasonably mitigate the risk of flight from prosecution as required. In  
11 determining whether the defendant presents a risk of flight from prosecution,  
12 the judicial officer shall consider, in addition to any other factors, the  
13 seriousness of the offense charged; the number of offenses with which the  
14 person is charged; whether, at the time of the current offense or arrest, the  
15 defendant was released on conditions or personal recognizance, on probation,  
16 furlough, parole, or other release pending trial, sentencing, appeal, or  
17 completion of a sentence for an offense under federal or state law; and  
18 whether, in connection with a criminal prosecution, the defendant is compliant  
19 with court orders or has failed to appear at a court hearing. If the judicial  
20 officer determines that the defendant presents a risk of flight from prosecution,  
21 the officer shall, either in lieu of or in addition to the methods of release in this

1 section, impose the least restrictive of the following conditions or the least  
2 restrictive combination of the following conditions that will reasonably  
3 mitigate the risk of flight of the defendant as required:

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

8 (B) Place restrictions on the travel or association of the defendant  
9 during the period of release.

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

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

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

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

4 (G) [Repealed.]

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

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

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

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

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

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

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

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

11           (F) [Repealed.]

12           (G) Place the defendant in the pretrial supervision program pursuant  
13 to section 7555 of this title, provided that the defendant meets the criteria  
14 identified in subdivision 7551(c)(1) of this title.

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

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

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

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

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

1 failed to appear at a court hearing. Recent history of actual violence or threats  
2 of violence may be considered by the judicial officer as bearing on the  
3 character and mental condition of the accused.

4 (c) Order. A judicial officer authorizing the release of a person under this  
5 section shall issue an appropriate order containing a statement of the conditions  
6 imposed, if any; shall inform such person of the penalties applicable to  
7 violations of the conditions of release; and shall advise ~~him or her~~ the person  
8 that a warrant for ~~his or her~~ the person's arrest ~~will~~ may be issued immediately  
9 upon any such violation.

10 (d) Review of conditions.

11 (1) A person for whom conditions of release are imposed and who is  
12 detained as a result of ~~his or her~~ the person's inability to meet the conditions  
13 of release or who is ordered released on a condition that ~~he or she~~ the person  
14 return to custody after specified hours, or the State, following a material  
15 change in circumstances, shall, within 48 hours following application, be  
16 entitled to have the conditions reviewed by a judge in the court having original  
17 jurisdiction over the offense charged. A party applying for review shall be  
18 given the opportunity for a hearing. Unless the conditions of release are  
19 amended as requested, the judge shall set forth in writing or orally on the  
20 record a reasonable basis for continuing the conditions imposed. In the event



1 that a judge in the court having original jurisdiction over the offense charged is  
2 not available, any Superior judge may review such conditions.

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

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

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

19 (g) Admissibility of evidence. Information stated in, or offered in  
20 connection with, any order entered pursuant to this section need not conform to  
21 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. 3. 13 V.S.A. § 7554b is amended to read:

19 § 7554b. HOME DETENTION PROGRAM

20 (a) Intent. It is the intent of the General Assembly that the Home Detention  
21 Program be designed to provide an alternative to incarceration and reduce the

1 number of detainees at Vermont correctional facilities by accommodating  
2 defendants who would otherwise be incarcerated or pose a significant risk to  
3 public safety.

4 (b) Definition. As used in this section, “home detention” means a program  
5 of confinement and supervision that restricts a defendant to a preapproved  
6 residence continuously, except for authorized absences, and is enforced by  
7 appropriate means of surveillance and electronic monitoring by the Department  
8 of Corrections, including the use of passive electronic monitoring. The court  
9 may authorize scheduled absences such as for work, school, or treatment. Any  
10 changes in the schedule shall be solely at the discretion of the Department of  
11 Corrections. A defendant who is on home detention shall remain in the  
12 custody of the Commissioner of Corrections with conditions set by the court.

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

14 (1) Procedure. At the request of the court, the Department of  
15 Corrections, the prosecutor, or the defendant, the status of a defendant who is  
16 detained pretrial in a correctional facility for inability to pay bail after bail has  
17 been set by the court may be reviewed by the court to determine whether the  
18 defendant is appropriate for home detention. The review shall be scheduled  
19 upon the court’s receipt of a report from the Department determining that the  
20 proposed residence is suitable for the use of electronic monitoring. A  
21 defendant held without bail pursuant to section 7553 or 7553a of this title shall

1 not be eligible for release to the Home Detention Program on or after June 1,  
2 2018. At arraignment or after a hearing, the court may order that the defendant  
3 be released to the Home Detention Program, provided that the court finds  
4 placing the defendant on home detention will reasonably ~~assure his or her~~  
5 ~~appearance in court when required~~ mitigate the defendant's risk of flight and  
6 the proposed residence is appropriate for home detention. In making such a  
7 determination, the court shall consider:

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

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

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

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

18 (d) Defendants who violate conditions of release.

19 (1) Procedure. At the request of the court, the prosecutor, or the  
20 defendant, the status of a defendant who has allegedly violated conditions of  
21 release may be reviewed by the court to determine whether the defendant is

1 appropriate for home detention. The review shall be scheduled upon the  
2 court's receipt of a report from the Department determining that the proposed  
3 residence is suitable for the use of electronic monitoring. A defendant held  
4 without bail pursuant to section 7553 or 7553a of this title shall not be eligible  
5 for release to the Home Detention Program on or after June 1, 2024. At  
6 arraignment or after a hearing, the court may order that the defendant be  
7 released to the Home Detention Program upon the court's finding that the  
8 defendant poses a significant risk to public safety, placing the defendant on  
9 home detention will reasonably mitigate such risk, and the proposed residence  
10 is appropriate for home detention. In making such a determination, the court  
11 shall consider the factors listed in subdivisions (c)(1)(A)–(C) of this section.

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

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

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

20 or

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

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

4           (f) Program support. The Department may support the monitoring  
5 operations of the Program through grants of financial assistance to, or contracts  
6 for services with, any public entity that meets the Department’s requirements.

7           (g) Policies and procedures. The Department of Corrections shall establish  
8 written policies and procedures for the Home Detention Program to be used by  
9 the Department, any contractors or grantees that the Department engages with  
10 to assist with the monitoring operations of the Program, and to assist the courts  
11 in understanding the Program.

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

13       § 7555. PRETRIAL SUPERVISION PROGRAM

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

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

21           (c) Pretrial supervision.

1       (1) Except as provided in subsection (g) of this section, beginning on  
2 January 1, 2025, the Pretrial Supervision Program shall, if ordered by the court  
3 pursuant to subsection (d) of this section, monitor defendants who have been  
4 charged with violating a condition of release pursuant to section 7559 of this  
5 title or have not fewer than five pending dockets and pose a risk of  
6 nonappearance at court hearings, a risk of flight, or a risk of endangering the  
7 public.

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

- 14           (A) the Department's telephone monitoring system;  
15           (B) telephonic meetings with a pretrial supervision officer;  
16           (C) in-person meetings with a pretrial supervision officer;  
17           (D) electronic monitoring; or  
18           (E) any other means of contact deemed appropriate.

19       (3) When placing a defendant into the Program pursuant to subsection  
20 (d) of this section, the court shall issue an order that sets the defendant's level

1 of supervision based on the recommendations submitted by the Department of  
2 Corrections.

3 (d) Procedure.

4 (1) At arraignment or at a subsequent hearing, the prosecutor or the  
5 defendant may move, or on the court's own motion, that the defendant be  
6 reviewed by the court to determine whether the defendant is appropriate for  
7 pretrial supervision. The review shall be scheduled upon the court's receipt of  
8 a report from the Department of Corrections containing recommendations  
9 pertaining to the defendant's supervision level.

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

11 (A) violated conditions of release pursuant to section 7559 of this  
12 title; or

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

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



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

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

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

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

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

10          (e) Compliance and review.

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

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

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

20           (4) Upon submission of the pretrial supervision officer's sworn affidavit  
21 by the prosecutor, the court may issue a warrant for the arrest of a defendant

1 who fails to report to the pretrial supervision officer, commits multiple  
2 violations of supervision requirements, or has absconded.

3 (f) Policies and procedures.

4 (1) On or before November 1, 2024, the Department of Corrections shall  
5 establish written policies and procedures for the Pretrial Supervision Program  
6 to be used by the Department and any contractors or grantees that the  
7 Department engages with to assist in the monitoring operations of the Program  
8 and to assist the courts in understanding the Program.

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

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

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

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

2 § 7559. ~~RELEASE; DESIGNATION; SANCTIONS~~ VIOLATIONS OF  
3 CONDITIONS OF RELEASE; FAILURE TO APPEAR;  
4 WARRANTLESS ARREST

5 (a) ~~The officer in charge of a facility under the control of the department of~~  
6 ~~corrections, county jail or a local lockup shall discharge any person held by~~  
7 ~~him or her upon receipt of an order for release issued by a judicial officer~~  
8 ~~pursuant to section 7554 of this title, accompanied by the full amount of any~~  
9 ~~bond or cash bail fixed by the judicial officer. The officer in charge, or a~~  
10 ~~person designated by the Court Administrator, shall issue a receipt for such~~  
11 ~~bond or cash bail, and shall account for and turn over such bond or cash bail to~~  
12 ~~the court having jurisdiction~~ The State's Attorney may commence a  
13 prosecution for criminal contempt under Rule 42 of the Vermont Rules of  
14 Criminal Procedure against a person who violates a condition of release  
15 imposed under section 7554 of this title. The maximum penalty that may be  
16 imposed under this section shall be a fine of \$1,000.00 or imprisonment for six  
17 months, or both.

18 (b) ~~The Court Administrator shall designate persons to set bail for any~~  
19 ~~person under arrest prior to arraignment when the offense charged provides for~~  
20 ~~a penalty of less than two years imprisonment or a fine of less than \$1,000.00~~  
21 ~~or both. Such persons designated by the Court Administrator shall be~~

1 ~~considered judicial officers for the purposes of sections 7554 and 7556 of this~~  
2 ~~title~~ Upon commencement of a prosecution for criminal contempt, including  
3 when considering an afterhours request to set temporary conditions or impose  
4 bail for criminal contempt, or upon the initial appearance of the person to  
5 answer such offense, in accordance with section 7553, 7553a, 7554, or 7575 of  
6 this title, a judicial officer may continue or modify existing conditions of  
7 release or terminate release of the person.

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

16 (d) ~~A person who has been released pursuant to section 7554 of this title~~  
17 ~~with or without bail on condition that he or she appear at a specified time and~~  
18 ~~place in connection with a prosecution for an offense and who without just~~  
19 ~~cause fails to appear shall be imprisoned not more than two years or fined not~~  
20 ~~more than \$5,000.00, or both~~ Notwithstanding Rule 3 of the Vermont Rules  
21 of Criminal Procedure, a law enforcement officer may arrest a person without a

1 warrant when the officer has probable cause to believe the person without just  
2 cause has failed to appear at a specified time and place in connection with a  
3 prosecution for an offense or has violated a condition of release relating to a  
4 restriction on travel or a condition of release that the person not directly  
5 contact, harass, or cause to be harassed a victim or potential witness.

6 (e) ~~The State's Attorney may commence a prosecution for criminal~~  
7 ~~contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a~~  
8 ~~person who violates a condition of release imposed under section 7554 of this~~  
9 ~~title. The maximum penalty that may be imposed under this subsection shall~~  
10 ~~be a fine of \$1,000.00 or imprisonment for six months, or both. Upon~~  
11 ~~commencement of a prosecution for criminal contempt, the court shall review,~~  
12 ~~in accordance with section 7554 of this title, and may continue or modify~~  
13 ~~conditions of release or terminate release of the person. [Repealed.]~~

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

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

2 § 7559a. RELEASE; DESIGNATION

3 (a) The officer in charge of a facility under the control of the department of  
4 corrections shall discharge any person held by the officer upon receipt of an  
5 order for release issued by a judicial officer pursuant to section 7554 of this  
6 title, accompanied by the full amount of any bond or cash bail fixed by the  
7 judicial officer. The officer in charge, or a person designated by the Court  
8 Administrator, shall issue a receipt for such bond or cash bail and shall account  
9 for and turn over such bond or cash bail to the court having jurisdiction.

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 not more than  
13 \$1,000.00, or both. Such persons designated by the Court Administrator shall  
14 be considered judicial officers for the purposes of sections 7554 and 7556 of  
15 this title.

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

19 Sec. 7. COMMUNITY RESTITUTION; INTENT

20 It is the intent of the General Assembly that the Department of Corrections  
21 reinstitute the Community Restitution Program and ensure that it is

1 appropriately staffed and resourced so that it may be offered in all 14 counties  
2 as a sentencing alternative.

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

4 § 7030. SENTENCING ALTERNATIVES

5 (a) In determining which of the following should be ordered, the court shall  
6 consider the nature and circumstances of the crime; the history and character of  
7 the defendant; the defendant's family circumstances and relationships; the  
8 impact of any sentence upon the defendant's minor children; the need for  
9 treatment; any noncompliance with court orders or failures to appear in  
10 connection in connection with a criminal prosecution; and the risk to self,  
11 others, and the community at large presented by the defendant:

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

13 (2) Referral to a community reparative board pursuant to 28 V.S.A.  
14 chapter 12 in the case of an offender who has pled guilty to a nonviolent  
15 felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the  
16 subject areas prohibited for referral to a community justice center under  
17 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this  
18 subdivision does not require the court to place the offender on probation. The  
19 offender shall return to court for further sentencing if the reparative board does  
20 not accept the case or if the offender fails to complete the reparative board

1 program to the satisfaction of the board in a time deemed reasonable by the  
2 board.

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

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

6 ~~(4)~~(5) Supervised community sentence pursuant to 28 V.S.A. § 352.

7 ~~(5)~~(6) Sentence of imprisonment.

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

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

12 § 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A  
13 DRUG

14 (a) A person who uses a firearm during and in relation to selling or  
15 dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3),  
16 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of  
17 this title shall be imprisoned not more than three years or fined not more than  
18 \$5,000.00, or both, in addition to the penalty for the underlying crime.

19 (b) A person who uses a firearm during and in relation to trafficking a  
20 regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or  
21 4234a(c) of this title shall be imprisoned not more than five years or fined not



1 more than \$10,000.00, or both, in addition to the penalty for the underlying  
2 crime.

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

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

5 (2) the exchange of firearms for drugs, and this section shall apply to the  
6 person who trades a firearm for a drug and the person who trades a drug for a  
7 firearm.

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

11 Sec. 10. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;

12 PRETRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;

13 REPORT

14 (a) The Joint Legislative Justice Oversight Committee shall review the  
15 PreTrial Supervision Program established pursuant to 13 V.S.A. § 7555. The  
16 Committee shall review and provide recommendations to the Department of  
17 Corrections for the most prudent use of any funds appropriated to the  
18 Department to operate the Program. The review shall also include  
19 recommendations concerning the geographic areas that the Department may  
20 first implement the Program and future funding mechanisms for the Program.

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

4       Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES;  
5               RECONSTITUTION; REPORT

6       (a) On or before January 1, 2025, the Corrections Monitoring Commission  
7       shall conduct a review to identify what the Commission’s needs are to operate,  
8       including its structural challenges; recommendations of changes to the  
9       membership of the Commission; the training necessary for members to operate  
10       effectively as a Commission; and the resources necessary given its mandates  
11       pursuant to 28 V.S.A. § 123.

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

15       Sec. 12. PROSPECTIVE REPEAL

16       13 V.S.A. § 7555 shall be repealed on December 31, 2026.

17       Sec. 13. EFFECTIVE DATE

18       This act shall take effect on passage.