

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred  
3 Senate Bill No. 195 entitled “An act relating to how a defendant’s criminal  
4 record is considered in imposing conditions of release” respectfully reports that  
5 it has considered the same and recommends that the bill be amended as  
6 recommended by the Committee on Judiciary and be further amended as  
7 follows:

8 First: By striking out Sec. 3, 13 V.S.A. § 7554b, in its entirety and inserting  
9 in lieu thereof a new Sec. 3 to read as follows:

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

11 § 7554b. HOME DETENTION PROGRAM

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

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

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

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

17                ~~(2)~~(B) the defendant’s prior convictions, history of violence, medical  
18                and mental health needs, history of supervision, and risk of flight; and

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

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

5       (c) Defendants who violate conditions of release.

6       (1) Procedure. At the request of the court, the prosecutor, or the  
7       defendant, the status of a defendant who has allegedly violated conditions of  
8       release may be reviewed by the court to determine whether the defendant is  
9       appropriate for home detention. The review shall be scheduled upon the court’s  
10       receipt of a report from the Department determining that the proposed  
11       residence is suitable for the use of electronic monitoring. A defendant held  
12       without bail pursuant to section 7553 or 7553a of this title shall not be eligible  
13       for release to the Home Detention Program on or after June 1, 2024. At  
14       arraignment or after a hearing, the court may order that the defendant be  
15       released to the Home Detention Program, provided that the court finds placing  
16       the defendant on home detention will reasonably mitigate the defendant’s risk  
17       of flight, the risk of nonappearance, or reasonably ensure protection of the  
18       public, and the proposed residence is appropriate for home detention. In  
19       making such a determination, the court shall consider the factors listed in  
20       subdivisions (b)(1)(A)–(C) of this section.

1           (2) Failure to comply. The Department of Corrections may report a  
2           defendant’s unauthorized absence or failure to comply with any other  
3           condition of the Program to the prosecutor and the defendant, provided that a  
4           defendant’s failure to comply with any condition of the Program for a reason  
5           other than fault on the part of the defendant shall not be reportable. To address  
6           a reported violation, the prosecutor may request:

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

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

9           or

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

11           (d) Credit for time served. A defendant shall receive credit for a sentence  
12           of imprisonment for time served in the Home Detention Program.

13           (e) Program support. The Department may support the monitoring  
14           operations of the Program through grants of financial assistance to, or contracts  
15           for services with, any public entity that meets the Department’s requirements.

16           (f) Policies and procedures. The Department of Corrections shall establish  
17           written policies and procedures for the Home Detention Program to be used by  
18           the Department, any contractors or grantees that the Department engages with  
19           to assist with the monitoring operations of the program, and to assist the courts  
20           in understanding the Program.

1        Second: By striking out Sec. 4, 13 V.S.A. § 7555, in its entirety and  
2 inserting in lieu thereof a new Sec. 4 to read as follows:

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

4        § 7555. PRETRIAL SUPERVISION PROGRAM

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

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

12        (c) Pretrial supervision.

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

20        (2) The Department shall assign a pretrial supervision officer to monitor  
21 defendants in a designated region of Vermont and help coordinate any pretrial

1 services needed by the defendant. The Department shall determine the  
2 appropriate level of supervision using evidence-based screenings of those  
3 defendants eligible to be placed in the Program. The Department’s supervision  
4 levels may include use of:

5 (A) the Department’s telephone monitoring system;

6 (B) telephonic meetings with a pretrial supervisor;

7 (C) in-person meetings with a pretrial supervisor;

8 (D) electronic monitoring; or

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

10 (3) When placing a defendant into the Program pursuant to subsection  
11 (d) of this section, the court shall issue an order that sets the defendant’s level  
12 of supervision based on the recommendations submitted by the Department of  
13 Corrections.

14 (d) Procedure.

15 (1) At arraignment or at a subsequent hearing, the prosecutor or the  
16 defendant may move, or on the court’s own motion, that the defendant be  
17 reviewed by the court to determine whether the defendant is appropriate for  
18 pretrial supervision. The review shall be scheduled upon the court’s receipt of  
19 a report from the Department of Corrections containing recommendations  
20 pertaining to the defendant’s supervision level.

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

1           (A) violated conditions of release pursuant to section 7559 of this  
2 title; or

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

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

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

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

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

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

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

20           (e) Compliance and review.

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

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

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

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

14           (f) Policies and procedures.

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



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

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

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

12           Third: By adding a new Sec. 10 to read as follows:

13           Sec. 10. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;  
14                        PRETRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;  
15                        REPORT

16           (a) The Joint Legislative Justice Oversight Committee shall review the  
17           PreTrial Supervision Program established pursuant to 13 V.S.A. § 7555. The  
18           Committee shall review and provide recommendations to the Department of  
19           Corrections for the most prudent use of any funds appropriated to the  
20           Department to operate the Program. The review shall also include

1 recommendations concerning the geographic areas that the Department may  
2 first implement the Program and future funding mechanisms for the Program.

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

6 Fourth: By adding a new Sec. 11 to read as follows:

7 Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES  
8 RECONSTITUTION; REPORT

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

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

18 Fifth: By adding a new Sec. 12 to read as follows:

19 Sec. 12. PROSPECTIVE REPEAL

20 13 V.S.A. § 7555 shall be repealed on December 31, 2026.

21 and by renumbering the remaining sections to be numerically correct.

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2 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

4

Representative \_\_\_\_\_

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FOR THE COMMITTEE