

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, ~~or the prosecutor, or the~~ defendant, the status of a defendant who
3 is detained pretrial in a correctional facility for inability to pay bail after bail
4 has been set by the court may be reviewed by the court to determine whether
5 the 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 and the proposed residence is appropriate for home detention. In
18 making such a determination, the court shall consider the factors listed in
19 subdivisions (b)(1)(A)–(C) of this section.

20 (2) Failure to comply. The Department of Corrections may report a
21 defendant's unauthorized absence or failure to comply with any other

1 condition of the Program to the prosecutor and the defendant, provided that a
2 defendant's failure to comply with any condition of the Program for a reason
3 other than fault on the part of the defendant shall not be reportable. To address
4 a reported violation, the prosecutor may request:

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

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

7 or

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

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

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

14 (f) Manual. The Department of Corrections shall establish a written
15 policies and procedures manual for the Home Detention Program to be used by
16 the Department, any contractors or grantees that the Department engages with
17 to assist with the monitoring operations of the program, and the courts.

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

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

1 § 7555. PRETRIAL SUPERVISION PROGRAM

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

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

9 (c) Pretrial supervision.

10 (1) Beginning on January 1, 2025, the Pretrial Supervision Program
11 shall, if ordered by the court pursuant to subsection (d) of this section,
12 supervise defendants who have been charged with violating a condition of
13 release pursuant to section 7559 of this title or have not fewer than five
14 pending dockets and pose a risk of nonappearance at court hearings, a risk of
15 flight, or a risk of endangering the public.

16 (2) The Department shall assign a pretrial supervisor to monitor
17 defendants in a designated region of Vermont and help coordinate any pretrial
18 services needed by the defendant. The Department shall determine the
19 appropriate level of supervision using evidence-based screenings of those
20 defendants eligible to be placed in the Program. The Department’s supervision
21 levels may include use of:

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

2 (B) telephonic meetings with a pretrial supervisor;

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

4 (D) electronic monitoring; or

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

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

10 (d) Procedure.

11 (1) At arraignment or at a subsequent hearing, the prosecutor or the
12 defendant may move, or on the court’s own motion, that the defendant be
13 reviewed by the court to determine whether the defendant is appropriate for
14 pretrial supervision. The review shall be scheduled upon the court’s receipt of
15 a report from the Department of Corrections containing recommendations
16 pertaining to the defendant’s supervision level. A defendant held without bail
17 pursuant to section 7553 or 7553a shall not be eligible for pretrial supervision.

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

19 (A) violated conditions of release pursuant to section 7559 of this
20 title; or

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

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

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

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

12 (C) the defendant’s prior convictions, history of violence, medical
13 and mental health needs, history of supervision, and risk of flight;

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

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

17 (e) Compliance and review.

18 (1) Pretrial supervisors shall notify the prosecutor and use reasonable
19 efforts to notify the defendant of any violations of court-imposed Program
20 conditions committed by the defendant.

1 (2) Pretrial supervisors may notify the prosecutor and use reasonable
2 efforts to notify the defendant of any violations of Department-imposed
3 administrative conditions committed by the defendant.

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

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

11 (f) Manual.

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

17 (2) For publication in the manual, the Department shall develop
18 supervision levels, evidence-based criteria for each supervision level, and the
19 means of contact that is appropriate for each supervision level.

1 (g) Contingent on funding. The Pretrial Supervision Program established
2 in this section shall operate only to the extent funds are appropriated for its
3 operation.

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

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

8 Sec. 10. COORDINATED JUSTICE REFORM ADVISORY COUNCIL;
9 PRE-TRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;
10 REPORT

11 (a) The Coordinated Justice Reform Advisory Council shall review the Pre-
12 Trial Supervision Program established pursuant to 13 V.S.A. § 7555. The
13 Council shall provide recommendations to the Department of Corrections for
14 the most prudent use of any funds appropriated to the Department to operate
15 the Program. The review shall also include recommendation concerning the
16 counties that the Department may first implement the Program.

17 (b) The Council’s recommendations pursuant to subsection (a) of this
18 section shall be included in the Council’s recommendation and report in
19 accordance with 28 V.S.A. § 126(c)(5) and (e).

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

1 Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES
2 RECONSTITUTION; REPORT

3 (a) On or before January 1, 2025, the Corrections Monitoring Commission
4 shall conduct a self-examination of its structural challenges; any training the
5 members of the Commission may need to operate effectively; and resources
6 necessary given its mandates pursuant to 28 V.S.A. § 123.

7 (b) On or before January 15, 2025, the Commission shall present its self-
8 examination to the Senate Committee on Judiciary and the House Committee
9 on Corrections and Institutions.

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

11 Sec. 12. PROSPECTIVE REPEAL

12 13 V.S.A. § 7555 shall be repealed on December 31, 2026.

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

14

15 (Committee vote: _____)

16

17

Representative _____

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FOR THE COMMITTEE