

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, 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 the courts.

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

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

2 § 7555. PRETRIAL SUPERVISION PROGRAM

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

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

10 (c) Pretrial supervision.

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

18 (2) The Department shall assign a pretrial supervisor supervision officer
19 to monitor defendants in a designated region of Vermont and help coordinate
20 any pretrial services needed by the defendant. The Department shall determine
21 the appropriate level of supervision using evidence-based screenings of those

1 defendants eligible to be placed in the Program. The Department’s supervision
2 levels may include use of:

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

4 (B) telephonic meetings with a pretrial supervisor;

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

6 (D) electronic monitoring; or

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

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

12 (d) Procedure.

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

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

4 (2) Pretrial supervisors supervision officers may notify the prosecutor
5 and use reasonable efforts to notify the defendant of any violations of
6 Department-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 supervisor's supervision officer's
11 sworn affidavit by the prosecutor, the court may issue a warrant for the arrest
12 of a defendant who fails to report to the pretrial supervisor, 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, any contractors or grantees that the Department
18 engages with to assist in the monitoring operations of the Program, and the
19 courts.

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 Pre-Trial Supervision as a condition of release in accordance
8 with 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 PRE-TRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;
15 REPORT

16 (a) The Joint Legislative Justice Oversight Committee shall review the Pre-
17 Trial 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 areas that the Department may first
2 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 self-examination of its structural challenges; any training the
11 members of the Commission may need to operate effectively; and resources
12 necessary given its mandates pursuant to 28 V.S.A. § 123.

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

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

17 Sec. 12. PROSPECTIVE REPEAL

18 13 V.S.A. § 7555 shall be repealed on December 31, 2026.

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

20
21 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE