

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 195
3 entitled “An act relating to how a defendant’s criminal record is considered in
4 imposing conditions of release” respectfully reports that it has considered the
5 same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

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

9 § 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND
10 APPEARANCE BONDS

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

19 (b) Limitation on imposition of bail, secured appearance bonds, and
20 appearance bonds.

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

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

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

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

17 (3) This subsection shall not be construed to restrict the court's ability to
18 impose conditions on such persons to reasonably mitigate the risk of flight
19 from prosecution or to reasonably protect the public in accordance with section
20 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) Definition. As used in this section, "home detention" means a program
21 of confinement and supervision that restricts a defendant to a preapproved

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

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

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

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

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

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

9 (c) Failure to comply. The Department of Corrections may ~~revoke~~ report 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~~ to the prosecutor and the defendant, provided that a
13 defendant’s failure to comply with any condition of the Program for a reason
14 other than fault on the part of the defendant shall not be reportable. To address
15 a reported violation, the prosecutor may initiate:

16 (1) a review of conditions pursuant to section 7554 of this title;

17 (2) a violation of conditions proceeding pursuant to section 7554e of this
18 title;

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

20 (4) a bail revocation hearing pursuant to section 7575 of this title.

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

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

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

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

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

8 (B) telephonic meetings with a pretrial supervisor;

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

10 (D) electronic monitoring; or

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

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

16 (d) Procedure.

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

1 pertaining to the defendant’s supervision level. A defendant held without bail
2 pursuant to section 7553 or 7553a shall not be eligible for pretrial supervision.

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

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

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

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

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

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

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

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

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

2 (e) Compliance and review.

3 (1) Pretrial supervisors shall notify the prosecutor and use reasonable
4 efforts to notify the defendant of any violations of Program supervision
5 requirements committed by the defendant.

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

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

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

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

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

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

5 § 7559. ~~RELEASE; DESIGNATION; SANCTIONS~~ VIOLATIONS OF
6 CONDITIONS OF RELEASE; FAILURE TO APPEAR;
7 WARRANTLESS ARREST

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

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

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

20 ~~A person who has been released pursuant to section 7554 of this title~~
21 ~~with or without bail on condition that he or she appear at a specified time and~~

1 ~~place in connection with a prosecution for an offense and who without just~~
2 ~~cause fails to appear shall be imprisoned not more than two years or fined not~~
3 ~~more than \$5,000.00, or both~~ Notwithstanding Rule 3 of the Vermont Rules
4 of Criminal Procedure, a law enforcement officer may arrest a person without a
5 warrant when the officer has probable cause to believe the person without just
6 cause has failed to appear at a specified time and place in connection with a
7 prosecution for an offense or has violated a condition of release relating to a
8 restriction on travel or a condition of release that the person not directly
9 contact, harass, or cause to be harassed a victim or potential witness.

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

18 (f) ~~Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a~~
19 ~~law enforcement officer may arrest a person without a warrant when the officer~~
20 ~~has probable cause to believe the person without just cause has failed to appear~~
21 ~~at a specified time and place in connection with a prosecution for an offense or~~

1 ~~has violated a condition of release relating to a restriction on travel or a~~
2 ~~condition of release that he or she not directly contact, harass, or cause to be~~
3 ~~harassed a victim or potential witness. [Repealed.]~~

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

5 § 7559a. RELEASE; DESIGNATION

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

13 (b) The Court Administrator shall designate persons to set bail for any
14 person under arrest prior to arraignment when the offense charged provides for
15 a penalty of less than two years imprisonment or a fine of not more than
16 \$1,000.00, or both. Such persons designated by the Court Administrator shall
17 be considered judicial officers for the purposes of sections 7554 and 7556 of
18 this title.

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

1 Sec. 7. COMMUNITY RESTITUTION; INTENT

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

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

7 § 7030. SENTENCING ALTERNATIVES

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

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

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

1 offender shall return to court for further sentencing if the reparative board does
2 not accept the case or if the offender fails to complete the reparative board
3 program to the satisfaction of the board in a time deemed reasonable by the
4 board.

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

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

8 (~~4~~)5) Supervised community sentence pursuant to 28 V.S.A. § 352.

9 (~~5~~)6) Sentence of imprisonment.

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

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

14 § 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A
15 DRUG

16 (a) A person who uses a firearm during and in relation to selling or
17 dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3),
18 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of
19 this title shall be imprisoned not more than three years or fined not more than
20 \$5,000.00, or both, in addition to the penalty for the underlying crime.

1 (b) A person who uses a firearm during and in relation to trafficking a
2 regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or
3 4234a(c) of this title shall be imprisoned not more than five years or fined not
4 more than \$10,000.00, or both, in addition to the penalty for the underlying
5 crime.

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

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

8 (2) the exchange of firearms for drugs, and this section shall apply to the
9 person who trades a firearm for a drug and the person who trades a drug for a
10 firearm.

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

14 Sec. 10. EFFECTIVE DATE

15 This act shall take effect on passage.

16

17

18 (Committee vote: _____)

19

20

21

Representative _____

FOR THE COMMITTEE