

1 TO THE HONORABLE SENATE:

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 bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

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

8 § 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND
9 APPEARANCE BONDS

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

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

20 (1) ~~Except as provided in subdivision (2) of this subsection, no~~ No bail,
21 ~~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 an offense
13 committed by a defendant who has been released pending trial for another
14 offense.

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.

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

20 § 7554. RELEASE PRIOR TO TRIAL

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

5 (1) The defendant shall be ordered released on personal recognizance or
6 upon the execution of an unsecured appearance bond in an amount specified by
7 the judicial officer unless the judicial officer determines that such a release will
8 not reasonably mitigate the risk of flight from prosecution as required. In
9 determining whether the defendant presents a risk of flight from prosecution,
10 the judicial officer shall consider, in addition to any other factors, the
11 seriousness of the offense charged and the number of offenses with which the
12 person is charged. If the judicial officer determines that the defendant presents
13 a risk of flight from prosecution, the officer shall, either in lieu of or in
14 addition to the methods of release in this section, impose the least restrictive of
15 the following conditions or the least restrictive combination of the following
16 conditions that will reasonably mitigate the risk of flight of the defendant as
17 required:

18 § 7554. RELEASE PRIOR TO TRIAL

19 (a) Release; conditions of release. Any person charged with an offense,
20 other than a person held without bail under section 7553 or 7553a of this title,

1 shall at his or her appearance before a judicial officer be ordered released
2 pending trial in accordance with this section.

3 (1) The defendant shall be ordered released on personal recognizance or
4 upon the execution of an unsecured appearance bond in an amount specified by
5 the judicial officer unless the judicial officer determines that such a release will
6 not reasonably mitigate the risk of flight from prosecution as required. In
7 determining whether the defendant presents a risk of flight from prosecution,
8 the judicial officer shall consider, in addition to any other factors, the
9 seriousness of the offense charged ~~and~~, the number of offenses with which the
10 person is charged, and any report or recommendation of the Office of Pre-Trial
11 Supervision. If the officer determines that the defendant presents a risk of
12 flight from prosecution, the officer shall, either in lieu of or in addition to the
13 methods of release in this section, impose the least restrictive of the following
14 conditions or the least restrictive combination of the following conditions that
15 will reasonably mitigate the risk of flight of the defendant as required:

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

20 (B) Place restrictions on the travel or association of the defendant
21 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) Upon consideration of the defendant’s financial means, require
6 the execution of a secured appearance bond in a specified amount and the
7 deposit with the clerk of the court, in cash or other security as directed, of a
8 sum not to exceed 10 percent of the amount of the bond, such deposit to be
9 returned upon the appearance of the defendant as required.

10 (E) Upon consideration of the defendant’s financial means, require
11 the execution of a surety bond with sufficient solvent sureties, or the deposit of
12 cash in lieu thereof.

13 (F) Impose any other condition found reasonably necessary to
14 mitigate the risk of flight as required, including a condition requiring that the
15 defendant return to custody after specified hours and any recommended
16 condition of the Office of Pre-Trial Supervision.

17 (G) [Repealed.]

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

20 (I) Place the defendant in a program of community-based electronic
21 monitoring pursuant to 7554f of this title.

1 (J) Place the defendant under the supervision of the Office of Pre-
2 Trial Supervision pursuant to 28 V.S.A. chapter 4.

3 (2) If the judicial officer determines that conditions of release imposed
4 to mitigate the risk of flight will not reasonably protect the public, the judicial
5 officer may impose, in addition, the least restrictive of the following conditions
6 or the least restrictive combination of the following conditions that will
7 reasonably ensure protection of the public:

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

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

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

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

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

4 (F) [Repealed.]

5 (G) Place the defendant in the home detention program pursuant to
6 section 7554b of this title.

7 (H) Place the defendant in a program of community-based electronic
8 monitoring pursuant to 7554f of this title.

9 (I) Place the defendant under the supervision of the Office of Pre-
10 Trial Supervision pursuant to 28 V.S.A. chapter 4.

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

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

17 (1) In subdivision (a)(1) of this section, the judicial officer, on the basis
18 of available information, shall take into account the nature and circumstances
19 of the offense charged; the weight of the evidence against the accused; the
20 accused’s employment; financial resources, including the accused’s ability to
21 post bail; the accused’s character and mental condition; the accused’s length of

1 residence in the community; and the accused’s record of appearance at court
2 proceedings or of flight to avoid prosecution or failure to appear at court
3 proceedings.

4 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis
5 of available information, shall take into account the nature and circumstances
6 of the offense charged; the weight of the evidence against the accused; the
7 number of offenses with which the accused is charged; whether the accused is
8 subject to release on personal recognizance or subject to conditions of release
9 related to protecting the public in another case pending before federal or state
10 court; whether the accused is subject to conditions related to protecting the
11 public for probation, parole, furlough, or another form of community
12 supervision; whether the accused is currently compliant with any standing
13 court orders related to protecting the public; and the accused’s family ties,
14 employment, character and mental condition, length of residence in the
15 community, record of convictions, and record of appearance at court
16 proceedings or of flight to avoid prosecution or failure to appear at court
17 proceedings. Recent history of actual violence or threats of violence may be
18 considered by the judicial officer as bearing on the character and mental
19 condition of the accused.

20 (c) Order. A judicial officer authorizing the release of a person under this
21 section shall issue an appropriate order containing a statement of the conditions

1 imposed, if any; shall inform such person of the penalties applicable to
2 violations of the conditions of release; and shall advise ~~him or her~~ the person
3 that a warrant for ~~his or her~~ the person's arrest will be issued immediately upon
4 any such violation.

5 (d) Review of conditions.

6 (1) A person for whom conditions of release are imposed and who is
7 detained as a result of ~~his or her~~ the person's inability to meet the conditions
8 of release or who is ordered released on a condition that ~~he or she~~ the person
9 return to custody after specified hours, or the State, following a material
10 change in circumstances, shall, within 48 hours following application, be
11 entitled to have the conditions reviewed by a judge in the court having original
12 jurisdiction over the offense charged. A party applying for review shall be
13 given the opportunity for a hearing. Unless the conditions of release are
14 amended as requested, the judge shall set forth in writing or orally on the
15 record a reasonable basis for continuing the conditions imposed. In the event
16 that a judge in the court having original jurisdiction over the offense charged is
17 not available, any Superior judge may review such conditions.

18 (2) A person for whom conditions of release are imposed shall, within
19 five working days following application, be entitled to have the conditions
20 reviewed by a judge in the court having original jurisdiction over the offense
21 charged. A person applying for review shall be given the opportunity for a

1 hearing. Unless the conditions of release are amended as requested, the judge
2 shall set forth in writing or orally on the record a reasonable basis for
3 continuing the conditions imposed. In the event that a judge in the court
4 having original jurisdiction over the offense charged is not available, any
5 Superior judge may review such conditions.

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

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

13 (g) Admissibility of evidence. Information stated in, or offered in
14 connection with, any order entered pursuant to this section need not conform to
15 the rules pertaining to the admissibility of evidence in a court of law.

16 (h) Forfeiture. Nothing contained in this section shall be construed to
17 prevent the disposition of any case or class of cases by forfeiture of collateral
18 security if such disposition is authorized by the court.

19 (i) Forms. The Court Administrator shall establish forms for appearance
20 bonds, secured appearance bonds, surety bonds, and for use in the posting of
21 bail. Each form shall include the following information:

1 (1) The bond or bail may be forfeited in the event that the defendant or
2 witness fails to appear at any required court proceeding.

3 (2) The surety or person posting bond or bail has the right to be released
4 from the obligations under the bond or bail agreement upon written application
5 to the judicial officer and detention of the defendant or witness.

6 (3) The bond will continue through sentencing in the event that bail is
7 continued after final adjudication.

8 (j) Juveniles. Any juvenile between 14 and 16 years of age who is charged
9 with a listed crime as defined in subdivision 5301(7) of this title shall appear
10 before a judicial officer and be ordered released pending trial in accordance
11 with this section within 24 hours following the juvenile’s arrest.

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

13 § 7554b. HOME DETENTION PROGRAM

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

1 Corrections. A defendant who is on home detention shall remain in the
2 custody of the Commissioner of Corrections with conditions set by the court.

3 (b) Procedure. At the request of the court, ~~the Department of Corrections~~
4 ~~the prosecutor, or the defendant, the status of a defendant who is detained~~
5 ~~pretrial in a correctional facility for inability to pay bail after bail has been set~~
6 ~~by the court~~ any person charged with an offense, other than a person held
7 without bail under sections 7553 or 7553a of this title, may be reviewed by the
8 court to determine whether the defendant is appropriate for home detention.

9 The review shall be scheduled upon the court's receipt of a report from the
10 Department determining that the proposed residence is suitable for the use of
11 electronic monitoring. ~~A defendant held without bail pursuant to section 7553~~
12 ~~or 7553a of this title shall not be eligible for release to the Home Detention~~
13 ~~Program on or after June 1, 2018.~~ At arraignment or after a hearing, the court
14 may order that the defendant be released to the Home Detention Program,
15 provided that the court finds placing the defendant on home detention will
16 reasonably ~~assure his or her appearance in court when required~~ mitigate the
17 defendant's risk of flight and the proposed residence is appropriate for home
18 detention. In making such a determination, the court shall consider:

- 19 (1) the nature of the offense with which the defendant is charged;
20 (2) the defendant's prior convictions, history of violence, medical and
21 mental health needs, history of supervision, and risk of flight; and

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

4 (c) Failure to comply. The Department of Corrections may revoke a
5 defendant's home detention status for an unauthorized absence or failure to
6 comply with any other condition of the Program and shall return the defendant
7 to a correctional facility.

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

10 (e) The Department may support the operation of the Program through
11 grants of financial assistance to, or contracts for services, with a state or its
12 political subdivisions, a Vermont agency or department, a Vermont
13 municipality or its political subdivisions, or a for-profit or nonprofit entity.

14 Sec. 4. 13 V.S.A. § 7554e is added to read:

15 § 7554e. VIOLATIONS OF CONDITIONS OF RELEASE

16 (a) Arrest; citation; appearance.

17 (1) Whenever a person is alleged to have violated a condition of release
18 ordered by a court pursuant to section 7554 of this title, the person may be
19 arrested or cited to appear before the court in which the conditions of release
20 were ordered.

1 (2) A judicial officer may issue a warrant for the arrest of a person
2 charged with violating a condition of release and the person shall appear before
3 the judicial officer.

4 (3) The person alleged to have violated a condition of release shall
5 appear before the judicial officer not later than the next business day following
6 the arrest or citation for a summary hearing pursuant to subsection (b) of this
7 section.

8 (b) Hearing.

9 (1) A person appearing before a court pursuant to this section shall be
10 entitled to a hearing to determine whether a condition of release was violated.
11 In making the determination, the judicial officer shall consider the following:

12 (A) whether probable cause exists that the person committed an
13 offense under federal or State law while released on personal recognizance or
14 released and subject to conditions of release; or

15 (B) whether clear and convincing evidence shows that the person
16 violated a condition of release and finds that:

17 (i) based on the factors set forth in section 7554 of this title, there
18 is no condition or combination of conditions of release that will reasonably
19 ensure the person’s court appearances, mitigate the person’s risk of flight from
20 prosecution, or reasonably protect the public; or

1 (ii) the person is unlikely to abide by any condition or
2 combination of conditions of release.

3 (2) The judicial officer shall issue an appropriate order addressing the
4 alleged violation pursuant to subsection (d) of this section.

5 (c) Burden of proof; admissibility of evidence; rebuttable presumptions.

6 (1) The State shall have the burden to prove a violation of conditions of
7 release by clear and convincing evidence.

8 (2) Information stated in, or offered in connection with, any order
9 entered pursuant to this section need not conform to the rules pertaining to the
10 admissibility of evidence in a court of law.

11 (3) If probable cause is found that, while released on personal
12 recognizance or released subject to conditions of release, the person committed
13 an offense under federal or State law, a rebuttable presumption arises that no
14 condition or combination of conditions will reasonably ensure the person's
15 court appearances, mitigate the person's risk of flight from prosecution, or
16 reasonably protect the public.

17 (4) In cases subject to subdivision (d)(4) of this section, when a person
18 violates a condition of release or commits a new criminal offense, a rebuttable
19 presumption arises that no condition or combination of conditions will
20 reasonably ensure the person's court appearances, mitigate the person's risk of

1 flight from prosecution, or reasonably protect the public when a person
2 violates a condition of release or commits a new criminal offense.

3 (d) Disposition of violations.

4 (1) If the judicial officer finds that there is a condition or combination of
5 conditions of release that will reasonably ensure the person's court
6 appearances, mitigate the person's risk of flight from prosecution, or
7 reasonably protect the public, and that the person is likely to abide by such
8 conditions, the officer shall treat the person pursuant to sections 7551 and 7554
9 of this title and may amend conditions of release accordingly.

10 (2) If the judicial officer finds that there is no condition or combination
11 of conditions of release that will reasonably ensure the person's court
12 appearances, mitigate the person's risk of flight from prosecution, or
13 reasonably protect the public, or that the person is unlikely to abide by such
14 conditions, the officer may commit the person to the custody of the
15 Commissioner of Corrections as a detainee subject to the limitations pursuant
16 to subdivisions (A)–(D) of this subdivision, provided the court determines that
17 such commitment is reasonably necessary to assist in the management of the
18 conduct or behavior of the person. A person committed to the custody of the
19 Commissioner of Corrections shall be detained for:

20 (A) not more than 14 days for a first violation of a condition of
21 release;

1 (B) not more than 30 days for a second violation of a condition of
2 release;

3 (C) not more than 30 days for a third violation of a condition of
4 release or any new criminal offense under federal or State law while subject to
5 conditions of release; and

6 (D) any amount of time, but not less than 30 days, that the judicial
7 officer determines is necessary to assist in the management or behavior of the
8 person for a fourth or subsequent violation of a condition of release, or the
9 commission of any new violent crime.

10 (3) A detainee held pursuant to subdivision (4) of this subsection shall
11 be entitled to review pursuant to subsection 7554(d) of this title.

12 (4) The court may revoke bail and hold a person without bail when the
13 person violates a condition of release issued in a case in which the person
14 could be held without bail pursuant to section 7553 or 7554a of this title, or
15 commits a new criminal offense while a case is pending in which the person
16 could be held without bail pursuant to section 7553 or 7554a of this title.

17 (e) Prosecution for contempt. Nothing in this section shall be construed to
18 modify or limit a judicial officer's ability to exercise the officer's own
19 authority to address contempt or to a prosecutor's ability to commence a
20 prosecution for contempt for any reason, including if the person violated a
21 condition of release.

1 Sec. 4. 13 V.S.A. § 7554f is added to read:

2 § 7554f. ELECTRONIC MONITORING PROGRAM

3 (a) Intent. It is the intent of the General Assembly that the electronic
4 monitoring program assist in ensuring a defendant’s compliance with
5 conditions of release, mitigating a defendant’s risk of flight, or reasonably
6 protecting the public.

7 (b) Program and administration.

8 (1) The Department of Corrections shall establish and manage an
9 electronic monitoring program for the purpose of supervising persons ordered
10 to be under electronic monitoring as a condition of release, in addition to or in
11 lieu of the imposition of bail pursuant to section 7554 of this title, or placed on
12 home detention pursuant to 7554b of this title.

13 (2) The program shall be a part of an integrated pre-trial supervision
14 program and shall provide 24-hours-a-day, seven-days-a-week electronic
15 monitoring with supervision and immediate response.

16 (3) The Department may support the operation of the program through
17 grants of financial assistance to, or contracts for services, with a state or its
18 political subdivisions, a Vermont agency or department, a Vermont
19 municipality or its political subdivisions, or a for-profit or nonprofit entity.

20 (d) Procedure. At the request of the court, the prosecutor, or the defendant,
21 the court may determine whether a defendant is appropriate for electronic

1 monitoring. At arraignment or after a hearing, the court may order that the
2 defendant be placed under electronic monitoring, provided that the court finds
3 that placing the defendant under electronic monitoring will assist in ensuring a
4 defendant’s compliance with conditions of release, mitigating a defendant’s
5 risk of flight, or reasonably protecting the public. In making such a
6 determination, the court shall consider:

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

8 (2) the defendant’s prior convictions, history of violence, medical and
9 mental health needs, history of supervision, risk of flight, and history of
10 compliance with court orders; and

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

14 (e) Policies. The Department of Corrections shall establish a written
15 policies and procedures manual for the electronic monitoring program to be
16 used by the Department, any contractors or grantees that the Department
17 engages with to assist in operating the program, and the courts.

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

19 § 7559. ~~RELEASE; DESIGNATION; SANCTIONS~~

20 ~~(a) The officer in charge of a facility under the control of the department of~~
21 ~~corrections, county jail or a local lockup shall discharge any person held by~~

1 ~~him or her upon receipt of an order for release issued by a judicial officer~~
2 ~~pursuant to section 7554 of this title, accompanied by the full amount of any~~
3 ~~bond or cash bail fixed by the judicial officer. The officer in charge, or a~~
4 ~~person designated by the Court Administrator, shall issue a receipt for such~~
5 ~~bond or cash bail, and shall account for and turn over such bond or cash bail to~~
6 ~~the court having jurisdiction.~~

7 ~~(b) The Court Administrator shall designate persons to set bail for any~~
8 ~~person under arrest prior to arraignment when the offense charged provides for~~
9 ~~a penalty of less than two years imprisonment or a fine of less than \$1,000.00~~
10 ~~or both. Such persons designated by the Court Administrator shall be~~
11 ~~considered judicial officers for the purposes of sections 7554 and 7556 of this~~
12 ~~title.~~

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

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.~~

1 including noncompliance with court orders related to ensuring the person's
2 appearance at future court proceedings and a person's failure to appear at court
3 hearings.

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

5 § 7030. SENTENCING ALTERNATIVES

6 (a) In determining which of the following should be ordered, the court shall
7 consider the nature and circumstances of the crime; the history and character of
8 the defendant; the defendant's family circumstances and relationships; the
9 impact of any sentence upon the defendant's minor children; the need for
10 treatment; any violations of conditions of release by the defendant; and the risk
11 to self, 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) Probation pursuant to 28 V.S.A. § 205.

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

5 (5) Sentence of imprisonment.

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

9 Sec. 7. 18 V.S.A. § 4253 is amended to read:

10 § 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A
11 DRUG

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

17 (b) A person who uses a firearm during and in relation to trafficking a
18 regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or
19 4234a(c) of this title shall be imprisoned not more than five years or fined not
20 more than \$10,000.00, or both, in addition to the penalty for the underlying
21 crime.

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

2 (1) carrying ~~or possessing~~ a firearm while selling or trafficking a
3 regulated drug; and

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

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

10 Sec. 8. 28 V.S.A. chapter 4 is added to read:

11 CHAPTER 4. PRE-TRIAL SUPERVISION

12 § 140. PRE-TRIAL SUPERVISION

13 (a)

14 Sec. 9. DEPARTMENT OF CORRECTIONS; POSITIONS;

15 APPROPRIATION

16 (a) On July 1, 2024, six new, permanent, classified Pre-Trial Supervisor
17 positions are created in the Department of Corrections. In addition to any
18 other duties deemed appropriate by the Department, a Pre-Trial Supervisor
19 shall have the following duties:

20 (1) collect, verify, and report to the court, prior to arraignment or bail
21 hearing, information pertaining to the pretrial release of each individual

1 charged with an offense, including information relating to any risk the release
2 of such person may pose to the public and any recommended conditions of
3 release.

4 (2) supervise individuals who are released on bail or personal
5 recognizance and subject to conditions of release as ordered by the courts
6 within a region of Vermont designated by the Department of Corrections;

7 (3) educate individuals who are released on bail or personal
8 recognizance and subject to conditions of release on the resources available to
9 pre-trial releasees; and

10 (4) report to the courts in the Pre-Trial Supervisor’s region on any
11 individuals who are released on bail or personal recognizance and have
12 allegedly violated any conditions of release.

13 (b) The six Pre-Trial Supervisors established in subsection (a) of this
14 section shall be subject to a General Fund appropriation in FY 2025.

15 Sec. 10. EFFECTIVE DATE

16 This act shall take effect on passage.

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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE