

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

1 (B) Place restrictions on the travel or association of the defendant
2 during the period of release.

3 (C) Require the defendant to participate in an alcohol or drug
4 treatment program. The judicial officer shall take into consideration the
5 defendant’s ability to comply with an order of treatment and the availability of
6 treatment resources.

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

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

15 (F) Impose any other condition found reasonably necessary to
16 mitigate the risk of flight as required, including a condition requiring that the
17 defendant return to custody after specified hours.

18 (G) [Repealed.]

19 (2) If the judicial officer determines that conditions of release imposed
20 to mitigate the risk of flight will not reasonably protect the public, the judicial
21 officer may impose, in addition, the least restrictive of the following conditions

1 or the least restrictive combination of the following conditions that will
2 reasonably ensure protection of the public:

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

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

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

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

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

19 (F) [Repealed.]

20 (3) A judicial officer may order that a defendant not harass or contact or
21 cause to be harassed or contacted a victim or potential witness. This order

1 shall take effect immediately, regardless of whether the defendant is
2 incarcerated or released.

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

5 (1) In subdivision (a)(1) of this section, the judicial officer, on the basis
6 of available information, shall take into account the nature and circumstances
7 of the offense charged; the weight of the evidence against the accused; the
8 accused's employment; financial resources, including the accused's ability to
9 post bail; the accused's character and mental condition; the accused's length of
10 residence in the community; and the accused's record of appearance at court
11 proceedings or of flight to avoid prosecution or failure to appear at court
12 proceedings.

13 (2) In subdivision (a)(2) of this section, the judicial officer, on the basis
14 of available information, shall take into account the nature and circumstances
15 of the offense charged; the weight of the evidence against the accused; the
16 number of offenses with which the accused is charged; whether the accused is
17 subject to release on personal recognizance or subject to conditions of release
18 related to protecting the public in another case pending before federal or state
19 court; whether the accused is subject to conditions related to protecting the
20 public for probation, parole, furlough, or another form of community
21 supervision; whether the accused is currently compliant with any standing

1 court orders related to protecting the public; and the accused's family ties,
2 employment, character and mental condition, length of residence in the
3 community, record of convictions, and record of appearance at court
4 proceedings or of flight to avoid prosecution or failure to appear at court
5 proceedings. Recent history of actual violence or threats of violence may be
6 considered by the judicial officer as bearing on the character and mental
7 condition of the accused.

8 (c) Order. A judicial officer authorizing the release of a person under this
9 section shall issue an appropriate order containing a statement of the conditions
10 imposed, if any; shall inform such person of the penalties applicable to
11 violations of the conditions of release; and shall advise ~~him or her~~ the person
12 that a warrant for ~~his or her~~ the person's arrest will be issued immediately upon
13 any such violation.

14 (d) Review of conditions.

15 (1) A person for whom conditions of release are imposed and who is
16 detained as a result of ~~his or her~~ the person's inability to meet the conditions
17 of release or who is ordered released on a condition that ~~he or she~~ the person
18 return to custody after specified hours, or the State, following a material
19 change in circumstances, shall, within 48 hours following application, be
20 entitled to have the conditions reviewed by a judge in the court having original
21 jurisdiction over the offense charged. A party applying for review shall be

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

6 (2) A person for whom conditions of release are imposed shall, within
7 five working days following application, be entitled to have the conditions
8 reviewed by a judge in the court having original jurisdiction over the offense
9 charged. A person applying for review shall be given the opportunity for a
10 hearing. Unless the conditions of release are amended as requested, the judge
11 shall set forth in writing or orally on the record a reasonable basis for
12 continuing the conditions imposed. In the event that a judge in the court
13 having original jurisdiction over the offense charged is not available, any
14 Superior judge may review such conditions.

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

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

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

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

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

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

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

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

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

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

2 § 7554b. HOME DETENTION PROGRAM

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

12 (b) Procedure. At the request of the court, the Department of Corrections
13 the prosecutor, or the defendant, the status of a defendant who is detained
14 pretrial in a correctional facility for inability to pay bail after bail has been set
15 by the court any person charged with a violation of conditions of release
16 pursuant to section 7554e or 7559 of this title, other than a person held without
17 bail under section 7553 or 7553a of this title, may be reviewed by the court to
18 determine whether the defendant is appropriate for home detention. The review
19 shall be scheduled upon the court’s receipt of a report from the Department
20 determining that the proposed residence is suitable for the use of electronic
21 monitoring. ~~A defendant held without bail pursuant to section 7553 or 7553a~~

1 ~~of this title shall not be eligible for release to the Home Detention Program on~~
2 ~~or after June 1, 2018.~~ At arraignment or after a hearing, the court may order
3 that the defendant be released to the Home Detention Program, provided that
4 the court finds placing the defendant on home detention will reasonably ~~assure~~
5 ~~his or her appearance in court when required~~ mitigate the defendant's risk of
6 flight and the proposed residence is appropriate for home detention. In making
7 such a determination, the court shall consider:

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

9 (2) the defendant's prior convictions, history of violence, medical and
10 mental health needs, history of supervision, and risk of flight; and

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

14 (c) Failure to comply. The Department of Corrections may revoke a
15 defendant's home detention status for an unauthorized absence or failure to
16 comply with any other condition of the Program and shall return the defendant
17 to a correctional facility in accordance with section 7575 of this title.

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

20 (e) Program support. The Department may support the operation of the
21 Program through grants of financial assistance to, or contracts for services

1 with, any private entity or public body that meets the Department's
2 requirements.

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

4 § 7554e. VIOLATIONS OF CONDITIONS OF RELEASE

5 (a) Procedure.

6 (1) The court may determine that a condition of release was violated
7 only upon notice to the defendant and a hearing.

8 (2) Whenever a person is alleged to have violated a condition of release
9 ordered by a court pursuant to section 7554 of this title, the person may be
10 arrested or cited to in accordance with Rule 3 of the Vermont Rules of
11 Criminal Procedure to appear before the court in which the conditions of
12 release were ordered.

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

16 (4) The person alleged to have violated a condition of release shall
17 appear before the judicial officer not later than the next business day following
18 the arrest or citation. At the person's initial appearance, the judicial officer
19 may commence a summary hearing pursuant to subsection (b) of this section or
20 at a subsequent hearing.

1 (5) The State shall have the burden of proving a violation of conditions
2 of release by a preponderance of the evidence.

3 (b) Hearing.

4 (1) In determining that a condition of release was violated, the judicial
5 officer shall consider any of the following:

6 (A) whether the person violated a condition of release that does not
7 otherwise constitute an offense under federal or State law;

8 (B) whether the person violated a condition of release that also
9 constitutes an offense under federal or State law;

10 (C) the nature of the underlying offense with which the defendant is
11 charged;

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

14 (E) any risk that the person poses to the public.

15 (2) Information stated in, or offered in connection with, any order
16 entered pursuant to this section need not conform to the rules pertaining to the
17 admissibility of evidence in a court of law unless the judicial officer
18 determines that live testimony is necessary.

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

21 (d) Disposition of violations.

1 (1) Upon a finding that the person violated conditions of release, the
2 judicial officer shall issue any of the following orders to reasonably ensure the
3 person’s court appearances, to mitigate the person’s risk of flight from
4 prosecution, or to reasonably protect the public:

5 (A) impose any condition or combination of conditions pursuant to
6 section 7554 of this title;

7 (B) place the person under the supervision of the pre-trial supervision
8 program pursuant to section 7554g of this title;

9 (C) place the person in a program of community-based electronic
10 monitoring pursuant to section 7554f of this title; or

11 (D) place the person in the home detention program pursuant to
12 section 7554b of this title.

13 (2) If the person violated a condition of release that also constitutes an
14 offense under federal or State law, the judicial officer may revoke bail pursuant
15 to section 7575 of this title.

16 (e) Exclusive remedy; prosecution for contempt. A prosecution pursuant to
17 this section or pursuant to section 7559 of this title shall be a prosecutor’s
18 exclusive remedy to modify or supplement conditions of release as a result of
19 an alleged violation. Nothing in this section shall be construed to modify or
20 limit a judicial officer’s ability to exercise the officer’s own authority to
21 address contempt or to modify or limit a prosecutor’s ability to commence a

1 prosecution for contempt for any reason other than a violation of a condition of
2 release.

3 Sec. 5. 13 V.S.A. § 7554f is added to read:

4 § 7554f. ELECTRONIC MONITORING PROGRAM

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

9 (b) Program and administration.

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

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

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

1 (c) Procedure. At the request of the court, the prosecutor, or the defendant,
2 the court may determine whether a defendant is appropriate for electronic
3 monitoring. After a hearing, the court may order that the defendant be placed
4 under electronic monitoring, provided that the court finds that placing the
5 defendant under electronic monitoring will assist in ensuring a defendant’s
6 compliance with conditions of release, mitigating a defendant’s risk of flight,
7 or reasonably protecting the public. In making such a determination, the court
8 shall consider:

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

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

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

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

1 Sec. 6. 13 V.S.A. § 7554g is added to read:

2 § 7554g. PRE-TRIAL SUPERVISION PROGRAM

3 (a) Purpose. The purpose of the Pre-Trial Supervision Program is to assist
4 eligible people through the use of evidence-based strategies to improve pre-
5 trial compliance with conditions of release, to coordinate and support the
6 provision of pre-trial 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, “Absconding” has the same
9 meaning as defined in 28 V.S.A. § 722(1).

10 (c) Pre-trial supervision.

11 (1) The Pre-Trial Supervision Program shall supervise persons who
12 violate conditions of release pursuant to sections 7554e or 7559 of this title and
13 who pose a risk of nonappearance at court proceedings, pose a risk of flight
14 from prosecution, or pose a risk to public safety.

15 (2) The Department of Corrections shall be responsible for supervising
16 defendants who are placed in the Pre-Trial Supervision Program. The
17 Department shall assign a pre-trial supervisor to monitor supervisees in an
18 assigned region of Vermont and help coordinate any pre-trial services needed
19 by the supervisee. The Department shall determine the appropriate level of
20 supervision based on evidence-based screenings of those persons eligible to be

1 placed in the program. The Department’s supervision methods shall include
2 use of:

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

4 (B) telephonic meetings with a pre-trial supervisor;

5 (C) in-person meetings with a pre-trial supervisor; or

6 (D) any other means of contact deemed appropriate.

7 (3) Pre-trial supervisors shall notify the court that placed a person in the
8 pre-trial supervision program of any violations of supervision requirements
9 committed by the person. The court may issue a warrant for the arrest of a
10 person who fails to report to the pre-trial supervisor, commits multiple
11 violations of supervision requirements, or is suspected of absconding, and the
12 person shall appear before the court for a bail revocation proceeding pursuant
13 to section 7575 of this title.

14 (d) Procedure.

15 (1) At the request of the court, the prosecutor, or the defendant, a person
16 may be reviewed by the court to determine whether the person is appropriate
17 for pre-trial supervision. The review shall be scheduled upon the court’s
18 receipt of a report from the Department of Corrections determining that the
19 person is eligible for pre-trial supervision. A person held without bail pursuant
20 to section 7553 or 7553a shall not be eligible for pre-trial supervision.

21 (2) A person is eligible for pre-trial supervision if the person:

1 (A) has violated conditions of release pursuant to section 7554e or
2 7559 of this title;

3 (B) is a Vermont resident with a Vermont address; and

4 (C) has the ability to make or receive telephone calls.

5 (3) After a hearing, the court may order that the defendant be released to
6 the Pre-Trial Supervision Program, provided that the court finds placing the
7 defendant under pre-trial supervision will reasonably ensure the person’s
8 appearance in court when required, mitigate the person’s risk of flight, or
9 reasonable ensure protection of the public. In making such a determination,
10 the court shall consider:

11 (A) the nature of the violation of conditions of release pursuant to
12 section 7554e or 7559 of this title;

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

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

17 (D) any other factors that the court deems appropriate.

18 (e) Compliance.

19 (1) A person who complies with all requirements of the Pre-Trial
20 Supervision Program for not less than 90 days may receive a reduction in
21 supervision level.

1 (2) A person who violates a requirement of the Pre-Trial Supervision
2 Program may receive an increase in supervision level.

3 Sec. 7. 13 V.S.A. § 7575 is amended to read:

4 § 7575. REVOCATION OF THE RIGHT TO BAIL

5 (a) Revocation. The right to bail may be revoked entirely if the judicial
6 officer finds the accused has:

7 (1) intimidated or harassed a victim, potential witness, juror, or judicial
8 officer in violation of a condition of release; ~~or~~

9 (2) repeatedly violated conditions of release in a manner that ~~impedes~~
10 disrupts the prosecution of the accused; ~~or~~

11 (3) violated a condition or conditions of release that constitute a threat to
12 the integrity of the judicial system; ~~or~~

13 (4) without just cause, failed to appear at a specified time and place
14 ordered by a judicial officer; or

15 (5) in violation of a condition of release, been charged with a felony or a
16 crime against a person or an offense similar to the underlying charge, for
17 which, after hearing, probable cause is found.

18 (b) Hearing required; burden of proof. The court may revoke bail only
19 after notice to the defendant and a hearing. The State shall have the burden of
20 proving by a preponderance of the evidence that the accused engaged in the
21 conduct identified in subdivisions (a)(1)–(5) of this section.

1 Sec. 9. 13 V.S.A. § 7030 is amended to read:

2 § 7030. SENTENCING ALTERNATIVES

3 (a) In determining which of the following should be ordered, the court shall
4 consider the nature and circumstances of the crime; the history and character of
5 the defendant; the defendant’s family circumstances and relationships; the
6 impact of any sentence upon the defendant’s minor children; the need for
7 treatment; any violations of conditions of release by the defendant; and the risk
8 to self, others, and the community at large presented by the defendant:

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

10 (2) Referral to a community reparative board pursuant to 28 V.S.A.
11 chapter 12 in the case of an offender who has pled guilty to a nonviolent
12 felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the
13 subject areas prohibited for referral to a community justice center under
14 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this
15 subdivision does not require the court to place the offender on probation. The
16 offender shall return to court for further sentencing if the reparative board does
17 not accept the case or if the offender fails to complete the reparative board
18 program to the satisfaction of the board in a time deemed reasonable by the
19 board.

20 (3) Probation pursuant to 28 V.S.A. § 205.

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

1 (5) Sentence of imprisonment.

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

5 Sec. 10. 18 V.S.A. § 4253 is amended to read:

6 § 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A
7 DRUG

8 (a) A person who uses a firearm during and in relation to selling or
9 dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3),
10 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of
11 this title shall be imprisoned not more than three years or fined not more than
12 \$5,000.00, or both, in addition to the penalty for the underlying crime.

13 (b) A person who uses a firearm during and in relation to trafficking a
14 regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or
15 4234a(c) of this title shall be imprisoned not more than five years or fined not
16 more than \$10,000.00, or both, in addition to the penalty for the underlying
17 crime.

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

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

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

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

7 Sec. 11. DEPARTMENT OF CORRECTIONS; POSITIONS;

8 APPROPRIATION

9 (a) On July 1, 2024, six new permanent classified Pre-Trial Supervisor
10 positions are created in the Department of Corrections. In addition to any
11 other duties deemed appropriate by the Department, the Pre-Trial Supervisors
12 shall monitor and supervise persons placed in the Pre-Trial Supervision
13 Program pursuant to 13 V.S.A. § 7554g.

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

16 (c) On July 1, 2024, one new permanent classified administrative assistant
17 position is created in the Department of Corrections. In addition to any duties
18 deemed appropriate by the Department, the administrative assistant shall
19 provide administrative support to the Pre-Trial Supervision Program pursuant
20 to 13 V.S.A. § 7554g.

1 (Committee vote: _____)

2

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Senator _____

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FOR THE COMMITTEE