

1 S.195

2 Introduced by Senators Collamore, Hardy, Sears and Weeks

3 Referred to Committee on

4 Date:

5 Subject: Crimes; criminal procedure; conditions of release

6 Statement of purpose of bill as introduced: This bill proposes to add the  
7 number of offenses with which a defendant is charged and the recent history of  
8 pending charges against a defendant as explicit factors a court considers in  
9 imposing conditions of release.

10 An act relating to how a defendant's criminal record is considered in  
11 imposing conditions of release

12 It is hereby enacted by the General Assembly of the State of Vermont:

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

14 § 7554. RELEASE PRIOR TO TRIAL

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

19 (1) The defendant shall be ordered released on personal recognizance or  
20 upon the execution of an unsecured appearance bond in an amount specified by

1 the judicial officer unless the judicial officer determines that such a release will  
2 not reasonably mitigate the risk of flight from prosecution as required. In  
3 determining whether the defendant presents a risk of flight from prosecution,  
4 the judicial officer shall consider, in addition to any other factors, the  
5 seriousness of the offense charged and the number of offenses with which the  
6 person is charged. If the judicial officer determines that the defendant presents  
7 a risk of flight from prosecution, the officer shall, either in lieu of or in  
8 addition to the methods of release in this section, impose the least restrictive of  
9 the following conditions or the least restrictive combination of the following  
10 conditions that will reasonably mitigate the risk of flight of the defendant as  
11 required:

12 \* \* \*

13 (2) If the judicial officer determines that conditions of release imposed  
14 to mitigate the risk of flight will not reasonably protect the public, the judicial  
15 officer may impose, in addition, the least restrictive ~~of the following~~ conditions  
16 or the least restrictive combination of ~~the following~~ conditions listed in this  
17 subdivision that will reasonably ensure protection of the public. The number  
18 of offenses with which the accused is charged or the recent history of pending  
19 charges against the accused, or both, shall be considered by the judicial officer  
20 as bearing on the determination of any conditions or combination of conditions  
21 that will reasonably ensure protection of the public.

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

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

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

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

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

17           (F) [Repealed.]

18           (3) A judicial officer may order that a defendant not harass or contact or  
19 cause to be harassed or contacted a victim or potential witness. This order  
20 shall take effect immediately, regardless of whether the defendant is  
21 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; and 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. 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 \* \* \*

1       Sec. 2. EFFECTIVE DATE

2       This act shall take effect on July 1, 2024.