

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:

*SAS EDO/EC is  
opposed to the  
deletion in 13 VSA  
7551(b)(1) of the  
exception for 13 VSA  
7551(b)(2) [the  
"except as provided"  
should not be  
deleted].*

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.

SAS EC/SAS  
EDO is in  
support of this  
language  
relating to the  
\$200.00 limit  
exception.

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:

*SAS EC/EDO had recommended that 7554(a)(1) be amended to mirror SAS suggested changes to 7576(9)*

*"...whether, at the time of the current offense or arrest, the person was on probation, parole or other release pending trial, sentencing, appeal or completion of sentence for an offense under federal, state or local law; the person's noncompliance with court orders and failures to appear at court hearings."*

18 \* \* \*

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

*SAS EC/EDO takes  
no position as to (b)  
(2), but does not  
believe that this  
amendment would  
alter COR practice in  
a manner distinct  
from current  
practice...*

1 § 7576. DEFINITIONS

2 As used in this chapter:

3 \* \* \*

4 (9) "Flight from prosecution" means any action or behavior undertaken  
5 by a person charged with a criminal offense to avoid court proceedings,  
6 including noncompliance with court orders related to protecting the public and  
7 failures to appear at court hearings.

SAS EC /  
SAS EDO is  
in support of  
this  
amendment  
to 7576(9)

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

9 § 7030. SENTENCING ALTERNATIVES

10 (a) In determining which of the following should be ordered, the court shall  
11 consider the nature and circumstances of the crime; the history and character of  
12 the defendant; the defendant's family circumstances and relationships; the  
13 impact of any sentence upon the defendant's minor children; the need for  
14 treatment; any violations of conditions of release by the defendant; and the risk  
15 to self, others, and the community at large presented by the defendant:

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

17 (2) Referral to a community correction board pursuant to 20 V.S.A.

1 (2) To assist persons who have been charged with an offense and who  
2 have substance abuse or mental health treatment needs regardless of the  
3 person’s prior criminal history record, except a person charged with a felony  
4 offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible under  
5 this section. Persons who have attained 18 years of age who are subject to a  
6 petition in the Family Division pursuant to 33 V.S.A. ~~chapters~~ chapter 52 or  
7 52A shall also be eligible under this section. Programming for these persons is  
8 intended to support access to appropriate treatment or other resources with the  
9 aim of improving the person’s health and reducing future adverse involvement  
10 in the justice system.

11 \* \* \*

12 (e) All adult court diversion programs receiving financial assistance from  
13 the Attorney General shall adhere to the following provisions:

14 (1) The diversion program shall accept only persons against whom  
15 charges have been filed and the court has found probable cause, but are not yet  
16 adjudicated. A repeat offender shall not be accepted by the diversion program.  
17 The prosecuting attorney may refer a person to diversion either before or after

SAS is opposed  
to this  
amendment.

1 diversion process, including the initial decision to participate, and the decision  
2 to accept the adult diversion contract, so that the candidate may give informed  
3 consent.

4 (3) The participant shall be informed that ~~his or her~~ the participant's  
5 selection of the adult diversion contract is voluntary.

6 (4) Each State's Attorney, in cooperation with the Office of the Attorney  
7 General and the adult court diversion program, shall develop clear criteria for  
8 deciding what types of offenses and offenders will be eligible for diversion;  
9 however, the State's Attorney shall retain final discretion over the referral of  
10 each case for diversion, but in no event shall repeat offenders be eligible for  
11 referral.

SAS is  
opposed to  
this  
amendment

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

3 Sec. 11. EFFECTIVE DATE

4 This act shall take effect on passage.

5 I would advocate for this to be  
6 10/1/24 to allow for time to  
7 train and become acquainted  
8 with any changes in practice /  
9 law.

10 (Committee vote: \_\_\_\_\_)

11 \_\_\_\_\_  
12 Senator \_\_\_\_\_  
13 FOR THE COMMITTEE