

1 H.230

2 Introduced by Representative Sullivan of Dorset

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedure; probation; bail

6 Statement of purpose of bill as introduced: This bill proposes to allow all  
7 probationers the opportunity to be released pursuant to the bail statute pending  
8 arraignment or a merits hearing for a charge of a violation of conditions of  
9 probation.

10 An act relating to bail for probationers

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

12 Sec. 1. 28 V.S.A. § 301 is amended to read:

13 § 301. SUMMONS OR ARREST OF PROBATIONER

14 At any time before the discharge of the probationer or the termination of the  
15 period of probation:

16 (1) Summons or warrant for arrest. The court may summon the  
17 probationer to appear before it or may issue a warrant for his or her arrest.

18 (2) Arrest or citation of person on probation. Any correctional officer  
19 may arrest a probationer without a warrant if, in the judgment of the  
20 correctional officer, the probationer has violated a condition or conditions of

1 his or her probation other than a condition that the probationer pay restitution;  
2 or may deputize any other law enforcement officer to arrest a probationer  
3 without a warrant by giving him or her a written statement setting forth that the  
4 probationer has, in the judgment of the correctional officer, violated a  
5 condition or conditions of his or her probation other than a condition that the  
6 probationer pay restitution. The written statement delivered with the person by  
7 the arresting officer to the supervising officer of the correctional facility to  
8 which the person is brought for detention shall be sufficient warrant for  
9 detaining him or her. In lieu of arrest, a correctional officer may issue a  
10 probationer a citation to appear for arraignment. In deciding whether to arrest  
11 or issue a citation, an officer shall consider whether issuance of a citation will  
12 reasonably ensure the probationer's appearance at future proceedings and  
13 reasonably protect the public.

14 (3) No right of action. Any probationer arrested and detained in  
15 accordance with the provisions of this chapter shall have no right of action  
16 against any law enforcement officer, correctional officer, employee of the  
17 Department of Corrections, or any other persons because of such arrest and  
18 detention.

19 (4) Detention pending hearing for probationer. Pending arraignment for  
20 any charge of violation, the probationer shall be detained at a correctional  
21 facility unless issued a citation by a correctional officer. Thereafter, the court

1 may release the probationer pursuant to 13 V.S.A. § 7554. ~~There shall be no~~  
2 ~~right to bail or release, unless the person is on probation for a nonviolent~~  
3 ~~misdemeanor or nonviolent felony.~~

4 (5) ~~Release of certain persons on probation for nonviolent offenses.~~

5 (A) ~~At arraignment, if the court finds that bail or conditions of~~  
6 ~~release will reasonably ensure the probationer's appearance at future~~  
7 ~~proceedings and conditions of release will reasonably protect the public, the~~  
8 ~~court shall release a probationer who is on probation for a nonviolent~~  
9 ~~misdemeanor or nonviolent felony pursuant to 13 V.S.A. § 7554.~~

10 (B) ~~As used in this section:~~

11 (i) ~~“Nonviolent felony” means a felony offense that is not a listed~~  
12 ~~crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual~~  
13 ~~exploitation of children in violation of 13 V.S.A. chapter 64.~~

14 (ii) ~~“Nonviolent misdemeanor” means a misdemeanor offense that~~  
15 ~~is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving~~  
16 ~~sexual exploitation of children in violation of 13 V.S.A. chapter 64 or~~  
17 ~~13 V.S.A. § 1030. [Repealed.]~~

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on July 1, 2021.