

1 H.587

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; sentencing; treatment court

6 Statement of purpose of bill as introduced: This bill proposes to create a
7 presumption that prosecuting attorneys refer to treatment dockets offenders
8 screened as having high prognostic risk and high criminogenic needs who are
9 alleged to have committed an offense associated with a substance use disorder.

10 An act relating to presumptive diversion to treatment court

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

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

13 § 7030. SENTENCING ALTERNATIVES

14 (a) In determining which of the following should be ordered, the court shall
15 consider the nature and circumstances of the crime, the history and character of
16 the defendant, the need for treatment, and the risk to self, others, and the
17 community at large presented by the defendant:

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

19 (2) Referral to a community reparative board pursuant to 28 V.S.A.
20 chapter 12 in the case of an offender who has pled guilty to a nonviolent

1 felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the
2 subject areas prohibited for referral to a community justice center under
3 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this
4 subdivision does not require the court to place the offender on probation. The
5 offender shall return to court for further sentencing if the reparative board does
6 not accept the case or if the offender fails to complete the reparative board
7 program to the satisfaction of the board in a time deemed reasonable by the
8 board.

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

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

11 (5) Sentence of imprisonment.

12 (6)(A) The prosecuting attorney shall refer to a post-plea adult drug
13 docket or DUI treatment docket an offender:

14 (i) charged with a new criminal offense or a violation of
15 conditions of a probationary sentence, where the offense is associated with a
16 substance use disorder; and

17 (ii) screened with a validated instrument by a treatment docket
18 coordinator as having a high prognostic risk and high criminogenic needs.

19 (B) An offender charged with a crime pursuant to this subdivision (6)
20 shall be presumed eligible for participation in a treatment docket unless the

1 prosecutor, after consultation with the victim, states on the record why a
2 referral to the program would not serve the ends of justice because:

3 (i) evidence demonstrates that the individual cannot be managed
4 safely or effectively in a treatment docket; or

5 (ii) adequate treatment is not available to the offender in the
6 treatment docket's jurisdiction.

7 (C) Referrals to determine eligibility may be made by the court,
8 defense counsel, or the State within 90 days of arraignment, but a person shall
9 not be deemed ineligible if a referral is made after 90 days from arraignment.

10 (D) If an offender is found eligible for a treatment docket pursuant to
11 subdivision (6)(A) of this subsection but a treatment docket is not available in
12 the county of the offense, the court shall consider a motion to transfer venue to
13 a county with a treatment docket.

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

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.