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H.775

Introduced by Representatives Morgan of Milton, Demar of Enosburgh,
Goslant of Northfield, Hango of Berkshire, Oliver of Sheldon,
Sammis of Castleton, Smith of Derby, and Taylor of Milton

Referred to Committee on

Date:

Subject: Judiciary; bail; conditions of release

Statement of purpose of bill as introduced: This bill proposes to simplify bail and conditions of release imposed on defendants by focusing the purpose of pretrial release to ensure a defendant's appearance at court proceedings and eliminating various bail considerations that do not focus on ensuring a defendant's court appearance.

An act relating to bail and pretrial release

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

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL GENERALLY, SECURED APPEARANCE
BONDS, AND APPEARANCE BONDS

(a) Bonds; ~~generally~~. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court

1 in cases where the offense is punishable by fine or imprisonment, and in
2 appealed cases, shall be taken to the Criminal Division of the Superior Court
3 where the prosecution is pending and shall remain binding upon parties until
4 discharged by the court or until sentencing. The person or witness shall appear
5 at all required court proceedings.

6 (b) ~~Limitation on imposition of bail, secured~~ Secured appearance bonds;
7 and appearance bonds.

8 (1) ~~Except as provided in subdivision (2) of this subsection, no bail~~ Bail,
9 a secured appearance bond, or an appearance bond may be imposed:

10 (A) at the initial appearance of a person charged with a misdemeanor
11 if the person was cited for the offense in accordance with Rule 3 of the
12 Vermont Rules of Criminal Procedure; ~~or~~

13 (B) ~~at the initial appearance or upon the temporary release pursuant~~
14 ~~to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged~~
15 ~~with a violation of a misdemeanor offense that is eligible for expungement~~
16 ~~pursuant to subdivision 7601(4)(A) of this title.~~

17 (2) ~~In the event the court finds that imposing bail is necessary to~~
18 ~~mitigate the risk of flight from prosecution for a person charged with a~~
19 ~~violation of a misdemeanor offense that is eligible for expungement pursuant~~
20 ~~to subdivision 7601(4)(A) of this title, the court may impose bail in a~~
21 ~~maximum amount of \$200.00.~~

1 ~~(3)~~ This subsection shall not be construed to restrict the court's ability to
2 impose conditions on such persons to reasonably ~~mitigate the risk of flight~~
3 ~~from prosecution~~ ensure a person's appearance at future court proceedings or
4 to reasonably protect the public in accordance with section 7554 of this title.

5 Sec. 2. 13 V.S.A. § 7554 is amended to read:

6 § 7554. RELEASE PRIOR TO TRIAL

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

11 (1) The defendant shall be ordered released on personal recognizance or
12 upon the execution of an unsecured appearance bond in an amount specified by
13 the judicial officer unless the judicial officer determines that such a release will
14 not reasonably ~~mitigate the risk of flight from prosecution~~ ensure the
15 defendant's appearance at future court proceedings as required. In determining
16 whether the defendant presents a risk of ~~flight from prosecution~~
17 nonappearance, the judicial officer shall consider, in addition to any other
18 factors, the seriousness of the offense charged and the number of offenses with
19 which the person is charged. If the officer determines that ~~the defendant~~
20 ~~presents a risk of flight from prosecution~~ such release will not reasonably
21 ensure the defendant's appearance as required, the officer shall, either in lieu

1 of or in addition to the methods of release in this section, impose the least
2 restrictive of the following conditions or the least restrictive combination of the
3 following conditions that will reasonably ~~mitigate the risk of flight~~ ensure the
4 appearance of the defendant as required:

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

9 (B) Place restrictions on the travel ~~or~~ association, or place of abode
10 of the defendant during the period of release.

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

15 (D) ~~Upon consideration of the defendant's financial means, require~~
16 Require the execution of a secured appearance bond in a specified amount and
17 the deposit with the clerk of the court, in cash or other security as directed, of a
18 sum not to exceed 10 percent of the amount of the bond, such deposit to be
19 returned upon the appearance of the defendant as required.

1 (E) ~~Upon consideration of the defendant's financial means, require~~
2 Require the execution of a surety bond with sufficient solvent sureties, or the
3 deposit of cash in lieu thereof.

4 (F) Impose any other condition found reasonably necessary to
5 ~~mitigate the risk of flight~~ ensure appearance as required, including a condition
6 requiring that the defendant return to custody after specified hours.

7 (G) [Repealed.]

8 (2) If the judicial officer determines that conditions of release imposed
9 to ~~mitigate the risk of flight~~ ensure appearance will not reasonably protect the
10 public, the judicial officer may impose in addition the least restrictive of the
11 following conditions or the least restrictive combination of the following
12 conditions that will reasonably ensure protection of the public:

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

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

19 (C) Require the defendant to participate in an alcohol or drug
20 treatment program. The judicial officer shall take into consideration the

1 defendant's ability to comply with an order of treatment and the availability of
2 treatment resources.

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

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

9 (F) [Repealed.]

10 (3) A judicial officer may order that a defendant not harass or contact or
11 cause to be harassed or contacted a victim or potential witness. This order
12 shall take effect immediately, regardless of whether the defendant is
13 incarcerated or released.

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

16 ~~(1) In subdivision (a)(1) of this section, the judicial officer, on the basis~~
17 ~~of available information, shall take into account the nature and circumstances~~
18 ~~of the offense charged; the weight of the evidence against the accused; the~~
19 ~~accused's employment; financial resources, including the accused's ability to~~
20 ~~post bail; the accused's character and mental condition; the accused's length of~~
21 ~~residence in the community; and the accused's record of appearance at court~~

1 ~~proceedings or of flight to avoid prosecution or failure to appear at court~~
2 ~~proceedings.~~

3 (2) ~~In subdivision (a)(2) 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; and the
6 accused's family ties, employment, character and mental condition, length of
7 residence in the community, record of convictions, and record of appearance at
8 court proceedings or of flight to avoid prosecution or failure to appear at court
9 proceedings. Recent history of actual violence or threats of violence may be
10 considered by the judicial officer as bearing on the character and mental
11 condition of the accused.

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

18 (d) Review of conditions.

19 (1) A person for whom conditions of release are imposed and who is
20 detained as a result of ~~his or her~~ the person's inability to meet the conditions of
21 release or who is ordered released on a condition that ~~he or she~~ the person

1 return to custody after specified hours, ~~or the State, following a material~~
2 ~~change in circumstances,~~ shall, within 48 hours following application, be
3 entitled to have the conditions reviewed by a judge in the court having original
4 jurisdiction over the offense charged. A party applying for review shall be
5 given the opportunity for a hearing. Unless the conditions of release are
6 amended as requested, the judge shall set forth in writing or orally on the
7 record a reasonable basis for continuing the conditions imposed. In the event
8 that a judge in the court having original jurisdiction over the offense charged is
9 not available, any Superior judge may review such conditions.

10 * * *

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

12 § 7575. REVOCATION OF THE RIGHT TO BAIL

13 The right to bail may be revoked entirely if the judicial officer finds that the
14 accused has:

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

17 (2) repeatedly violated conditions of release ~~in a manner that impedes~~
18 ~~the prosecution of the accused;~~ ~~or~~

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

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

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

6 Sec. 4. 13 V.S.A. § 7576 is amended to read:

7 § 7576. DEFINITIONS

8 As used in this chapter:

9 * * *

10 ~~(9) “Flight from prosecution” means any action or behavior undertaken~~
11 ~~by a person charged with a criminal offense to avoid court proceedings.~~

12 [Repealed.]

13 Sec. 5. EFFECTIVE DATE

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