

**DRAFT LEGISLATION — FOR VERMONT
LEGISLATIVE COUNSEL REVIEW**

September 25, 2026

Working title: An act relating to accountability for repeat property offenders on pretrial release

Submitted by: Dave Wolk, Independent candidate, Vermont State Senate, Rutland County

Status: Concept draft. This is not final bill language.

Statement of Purpose

This bill amends 13 V.S.A. § 7554 to require judicial officers to impose enhanced, verifiable conditions of pretrial release — rather than personal recognizance alone — on a defendant charged with a third qualifying property offense within a three-year period who also has a documented history of failing to appear or otherwise presents an elevated risk of flight. Failure to appear language is added to the law.

It does not authorize denial of bail; it strengthens the conditions attached to release, consistent with Chapter II, § 40 of the Vermont Constitution.

Constitutional Scope

Vermont Const. ch. II, § 40 permits denial of bail before trial only for offenses punishable by death or life imprisonment, or for a felony involving an act of violence against another person where release would pose a substantial threat of physical violence. Property offenses do not meet that standard. This draft is deliberately built as a conditions-of-release amendment, not a mandatory-detention provision, so it operates within existing constitutional limits.

Sec. 1. 13 V.S.A. § 7554 is amended by adding a new subdivision (a)(3) to read:

(3) Mandatory enhanced conditions; third qualifying property offense.

(A) Trigger. Notwithstanding subdivisions (a)(1) and (a)(2) of this section, if a defendant is charged with a qualifying property offense, as defined in subsection (e) of this section, and the judicial officer finds by a preponderance of the evidence that:

(i) the defendant has two or more prior convictions or pending charges for a qualifying property offense within the preceding three years, such that the current charge constitutes the third or subsequent qualifying property offense; and

(ii) the defendant either:

(I) failed to appear, without just cause, at one or more court proceeding within the preceding three years; or

(II) presents a risk of flight from prosecution under the factors set forth in subsection (b) of this section;

then the judicial officer shall impose, at a minimum, the following conditions of release in addition to any other conditions the officer finds warranted:

(i) a secured appearance bond in an amount reasonably calculated to ensure appearance, giving due consideration to the defendant's ability to pay consistent with subdivision (a)(1)(D) of this section;

(ii) placement under electronic monitoring by the Department of Corrections, including passive GPS monitoring, unless the Department certifies that monitoring capacity is unavailable, in which case the judicial officer shall impose the most restrictive available alternative under this section; and

(iii) a requirement that the defendant report in person to the Department of Corrections not less than once per week.

(B) Expedited review hearing. A defendant subject to conditions imposed under this subdivision (3) may request an expedited hearing to contest the findings under subdivision (A). If requested, the hearing shall be held within 72 hours, excluding weekends and holidays, at which the defendant may present evidence bearing on the factors in subdivision (A).

(C) Written findings required to deviate. A judicial officer who declines to impose the conditions required by subdivision (A), notwithstanding a finding that the trigger in subdivision (A) is met, shall state the reasons in writing on the record, including the specific circumstances that make the mandatory conditions unnecessary to reasonably mitigate the risk of flight or protect the public.

(D) No denial of bail. Nothing in this subdivision shall be construed to authorize a judicial officer to hold a defendant without bail. This subdivision operates solely to define the mandatory floor of conditions of release under this section.

Sec. 2. 13 V.S.A. § 7554 is amended by adding a new subsection (e) to read:

(e) Definitions. As used in subdivision (a)(3) of this section:

(1) “Qualifying property offense” means a violation of any of the following, or an attempt to commit any of the following:

- (A) burglary under 13 V.S.A. § 1201;
- (B) unlawful trespass under 13 V.S.A. § 3705, where accompanied by intent to commit a crime;
- (C) larceny or theft under 13 V.S.A. chapter 87;
- (D) retail theft under 13 V.S.A. § 2575;
- (E) unlawful mischief under 13 V.S.A. § 3701;
- (F) receiving or transporting stolen property under 13 V.S.A. § 2561; or
- (G) theft or unauthorized taking of a motor vehicle under 13 V.S.A. § 1094.

(2) “Preceding three years” is measured from the date of the offense currently charged.

Sec. 3. Effective Date

This act shall take effect upon passage.

Rationale

Vermont’s constitution lets judges deny bail only for violent felonies and capital offenses. A purely statutory “hold on the third property crime” provision would very likely be struck down. This draft instead uses the court’s existing, constitutionally sound authority to set conditions of release, and makes strong conditions — secured bond, GPS monitoring, weekly reporting — mandatory rather than discretionary once a defendant hits the third-offense/flight-risk threshold. It adds failure to appear to flight risk. It closes the practical “revolving door” problem without triggering a losing constitutional fight.