

FIRST REGULAR SESSION

HOUSE BILL NO. 773

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HARRIS (23) (Sponsor), BRINGER, WAGNER, LIESE, DARROUGH, SELBY, HARRIS (110), BAKER (25), PAGE, LOW (39), WILDBERGER, YAEGER, SWINGER, MEADOWS, JOLLY, WALTON AND WITTE (Co-sponsors).

Read 1st time March 10, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1767L.011

AN ACT

To repeal section 544.560, RSMo, and to enact in lieu thereof one new section relating to post-arrest release.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 544.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 544.560, to read as follows:

544.560. **1. Except as provided in subsection 2 of this section**, when any sheriff or other officer shall arrest a party by virtue of a warrant upon an indictment, or shall have a person in custody under a warrant of commitment on account of failing to find conditions for release as provided in section 544.455, and the conditions for release required are specified on the warrant, or if the case is a misdemeanor, such officer may set the conditions for release, and discharge the person so held from actual custody.

2. Subject to the provisions of section 544.170, no peace officer may release any person arrested for manufacturing or attempting to manufacture a controlled substance pursuant to section 195.211, RSMo, or violating subsection 8 of section 195.222, RSMo, or violating subsection 9 of section 195.223, RSMo, from custody until the person appears before a judge.

3. In determining bond and other conditions of release, the judge shall consider any evidence that the person is in any manner dependent upon a controlled dangerous substance or has a pattern of regular, illegal use of any controlled dangerous substance.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **A rebuttable presumption that no conditions of release on bond would assure the safety of**
16 **the community or any person therein shall arise if the state shows by a preponderance of**
17 **the evidence that:**

18 **(1) The person was arrested for manufacturing or attempting to manufacture a**
19 **controlled substance pursuant to section 195.211, RSMo, or violating subsection 8 of**
20 **section 195.222, RSMo, or violating subsection 9 of section 195.223, RSMo; and**

21 **(2) The person is in any manner dependent upon a controlled dangerous substance**
22 **or has a pattern of regular, illegal use of a controlled substance, and the person violating**
23 **either statute referred to in subdivision (1) of this subsection committed or attempted to**
24 **commit the violation to maintain or facilitate the person's dependence or pattern of illegal**
25 **use.**