

FIRST REGULAR SESSION

HOUSE BILL NO. 820

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

0896H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 221.025, 544.455, and 544.676, RSMo, and to enact in lieu thereof three new sections relating to the release of a defendant.

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

Section A. Sections 221.025, 544.455, and 544.676, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 221.025, 544.455, and 544.676, to read as follows:

221.025. 1. As an alternative to confinement, an individual may be placed on electronic monitoring pursuant to subsection [4] 2 of section 544.455 or subsection 6 of section 557.011, with such terms and conditions as a court shall deem just and appropriate under the circumstances.

2. A judge may, in his or her discretion, credit any such period of electronic monitoring against any period of confinement or incarceration ordered, however, electronic monitoring shall not be considered to be in custody or incarceration for purposes of eligibility for the MO HealthNet program, nor shall it be considered confinement in a correctional center or private or county jail for purposes of determining responsibility for the individual's health care.

3. This section shall not authorize a court to place an individual on electronic monitoring in lieu of the required imprisonment, community service, or court-ordered treatment program involving community service, if that individual is a prior, persistent, aggravated, chronic, or habitual offender sentenced pursuant to section 577.001 or section 577.023 as it existed prior to January 1, 2017.

544.455. 1. Any person charged with a bailable offense, at his or her appearance before ~~[an associate circuit judge or]~~ a judge may be ordered released pending trial, appeal, or other

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.

3 stage of the proceedings against him **or her** on his **or her** personal recognizance, unless the
4 ~~[associate circuit judge or]~~ judge **first** determines~~[, in the exercise of his discretion,]~~ that such
5 a release will not reasonably assure the appearance of the person as required **or that, if released**
6 **on any charge or violation, the defendant would pose a danger to a crime victim, the**
7 **community, any witness to the crime, or to any other person, as set forth in section 544.676.**

8 2. When ~~[such a determination is made, the associate circuit judge or]~~ **release on one's**
9 **own recognizance will not reasonably assure appearance,** the judge may, either in lieu of or
10 in addition to the above ~~[methods]~~ **method** of release, impose any or any combination of the
11 following conditions of release which will reasonably assure the appearance of the person for
12 trial:

13 (1) Place the person in the custody of a designated person or organization agreeing to
14 supervise him **or her**;

15 (2) Place restriction on the travel, association, or place of abode of the person during the
16 period of release;

17 (3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit
18 of cash in lieu thereof;

19 (4) Require the person to report regularly to some officer of the court, or peace officer,
20 in such manner as the ~~[associate circuit judge or]~~ judge directs;

21 (5) Require the execution of a bond in a given sum and the deposit in the registry of the
22 court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable
23 bonds of the United States or of the state of Missouri or any political subdivision thereof;

24 (6) Place the person on house arrest with electronic monitoring; except that all costs
25 associated with the electronic monitoring shall be charged to the person on house arrest. If the
26 judge finds the person unable to afford the costs associated with electronic monitoring, the judge
27 may order that the person be placed on house arrest with electronic monitoring if the county
28 commission agrees to pay from the general revenue of the county the costs of such monitoring.
29 If the person on house arrest is unable to afford the costs associated with electronic monitoring
30 and the county commission does not agree to pay the costs of such electronic monitoring, the
31 judge shall not order that the person be placed on house arrest with electronic monitoring;

32 (7) Impose any other condition deemed reasonably necessary to assure appearance as
33 required, including a condition requiring that the person return to custody after specified hours;

34 **(8) Impose any other condition established by supreme court rule.**

35 ~~[2.]~~ 3. In determining ~~[which conditions of release will reasonably assure appearance,~~
36 ~~the associate circuit judge or]~~ **conditions of release under this section and under section**
37 **544.676, if bail is not denied under subsection 1 of that section, the judge shall, on the basis**
38 **of available information, take into account the nature and circumstances of the offense charged,**

39 the weight of the evidence against the accused, the accused's family ties, employment, financial
40 resources, **including the ability to pay**, character and mental condition, the length of his **or her**
41 residence in the community, his **or her** record of convictions, ~~[and]~~ his **or her** record of
42 appearance at court proceedings or flight to avoid prosecution or failure to appear at court
43 proceedings, **and any other factor or tool approved by supreme court rule or order.**

44 ~~[3. An associate circuit judge or]~~ **4.** A judge authorizing the release of a person under
45 this section shall issue an appropriate order containing a statement of the conditions imposed,
46 if any, shall inform such person of the penalties applicable to violations of the conditions of his
47 **or her** release and shall advise him **or her** that a warrant for his **or her** arrest ~~[will]~~ **may** be
48 issued immediately upon any such violation.

49 ~~[4.]~~ **5.** A person for whom conditions of release are imposed and who after twenty-four
50 hours from the time of the release hearing continues to be detained as a result of his **or her**
51 inability to meet the conditions of release, shall, upon application, be entitled to have the
52 condition reviewed by the ~~[associate circuit judge or]~~ judge who imposed them. The motion
53 shall be determined promptly.

54 ~~[5. An associate circuit judge or]~~ **6.** A judge ordering the release of a person on any
55 condition specified in this section may at any time amend his **or her** order to impose additional
56 or different conditions of release; except that, if the imposition of such additional or different
57 conditions results in the detention of the person as a result of his **or her** inability to meet such
58 conditions or in the release of the person on a condition requiring him **or her** to return to custody
59 after specified hours, the provisions of subsection ~~[4]~~ **5** of this section shall apply.

60 ~~[6.]~~ **7.** Information stated in, or offered in connection with, any order entered pursuant
61 to this section need not conform to the rules pertaining to the admissibility of evidence in a court
62 of law.

63 ~~[7.]~~ **8.** Nothing contained in this section shall be construed to prevent the disposition of
64 any case or class of cases by forfeiture of collateral security where such disposition is authorized
65 by the court.

66 ~~[8.]~~ **9.** Persons charged with violations of municipal ordinances may be released by a
67 municipal judge or other judge who hears and determines municipal ordinance violation cases
68 of the municipality involved under the same conditions and in the same manner as provided in
69 this section for release by ~~[an associate circuit]~~ **a judge hearing cases in a circuit division.**

70 ~~[9.]~~ **10.** A circuit court may adopt a local rule authorizing the pretrial release on
71 electronic monitoring pursuant to subdivision (6) of subsection ~~[1]~~ **2** of this section in lieu of
72 incarceration of individuals charged with offenses specifically identified therein.

544.676. 1. Upon a showing by the state that a defendant poses a danger to a crime
2 victim, witness, ~~[or]~~ the community, **or any other person**, the court may deny bail to a

3 defendant or impose such conditions as it deems appropriate to protect a crime victim, witness
4 ~~[or]~~ , the community, **or any other person.**

5 2. In determining whether a defendant poses a danger **under this section or section**
6 **544.455** to a crime victim, witness, ~~[or]~~ the community, **or any other person**, the court ~~[may]~~
7 **shall** consider all relevant evidence, including but not limited to:

8 (1) The defendant's criminal record;

9 (2) **The weight of the evidence;**

10 (3) **Whether the defendant is a flight risk;**

11 (4) **Whether the defendant has previously been found guilty of armed criminal**
12 **action, burglary in the first degree, burglary in the second degree, delivery of a controlled**
13 **substance if the offense is a class B or C felony, distribution of a controlled substance,**
14 **manufacture of a controlled substance if the offense is a class A or B felony, any dangerous**
15 **felony as defined in section 556.061, or any felony offense listed under subsection 2 of**
16 **section 558.019;**

17 (5) **Whether the defendant is charged with any dangerous felony as defined in**
18 **section 556.061 or a felony offense under subsection 2 of section 558.019;**

19 (6) Whether the defendant was on probation **or parole** or released on bail at the time the
20 crime for which the court is considering bail was committed;

21 (7) **Whether the defendant violated any term or terms of probation or parole;**

22 ~~[(3)]~~ (8) The nature and circumstances of the crime for which bail is being sought; **or**

23 (9) **Any other factor required by rule or law.**

24 3. A defendant who is denied bail because he poses a danger to a crime victim, witness,
25 or the community shall, upon written request filed at arraignment, be entitled to a trial which
26 begins within one hundred twenty days of his arraignment or within one hundred twenty days
27 of an order granting a change of venue, whichever occurs later. The provisions of this subsection
28 shall be waived and of no effect if the defendant requests and receives a continuance or if bail
29 is set for the defendant.

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