

FIRST REGULAR SESSION

# HOUSE BILL NO. 1202

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COOK.

0896H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal sections 544.453 and 544.455, RSMo, and to enact in lieu thereof two new sections relating to conditions of bail.

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

Section A. Sections 544.453 and 544.455, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 544.453 and 544.455, to read as follows:

544.453. 1. Notwithstanding any provision of the law or court rule to the contrary, a  
2 judge or judicial officer, when setting bail or conditions of release in all courts in Missouri for  
3 any offense charged, shall consider, in addition to any factor required by law, whether:

4 (1) A defendant poses a danger to a victim of a crime, the community, any witness to  
5 the crime, or to any other person;

6 (2) A defendant is a flight risk;

7 (3) A defendant has committed a misdemeanor offense involving a crime of violence,  
8 sexual offense, or felony offense in this state or any other state in the last five years; and

9 (4) A defendant has failed to appear in court as a required condition of probation or  
10 parole for a misdemeanor involving a crime of violence or felony or a sexual offense within  
11 the last three years.

12 **2. If the judge or judicial officer determines the defendant is a prior offender for**  
13 **offenses committed under subdivision (3) of subsection 1 of this section, such defendant**  
14 **shall be presumed ineligible for bail unless the defendant:**

15 (1) **Has a severe medical condition requiring specialized treatment or care or**  
16 **requires intensive mental health treatment that cannot be provided in detention;**

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.

17           **(2) Is the primary caregiver for young children, elderly parents, or disabled**  
18 **family members and any detention would cause significant hardship to such**  
19 **dependents;**

20           **(3) Is pregnant and requires prenatal care that cannot be sufficiently provided in**  
21 **detention;**

22           **(4) Has a full- or part-time job and his or her detention would result in the loss**  
23 **of employment;**

24           **(5) Is enrolled in an educational program and any detention would disrupt his or**  
25 **her studies;**

26           **(6) Is actively participating in a rehabilitation program for substance use, anger**  
27 **management, or any other behavioral issues and his or her continued participation is**  
28 **deemed crucial for rehabilitation; or**

29           **(7) Has a comprehensive treatment plan in place which is supported by medical**  
30 **or mental health professionals that require his or her presence outside of detention.**

31           **3. Notwithstanding any other provision of law or court rule to the contrary, a**  
32 **release hearing shall be conducted within forty-eight hours of arrest and the prosecuting**  
33 **or circuit attorney shall have the burden to prove the defendant poses a flight risk or is a**  
34 **danger to the community.**

544.455. 1. Any person charged with a bailable offense, at his or her appearance  
2 before an associate circuit judge or judge may be ordered released pending trial, appeal, or  
3 other stage of the proceedings against him on his personal recognizance, unless the associate  
4 circuit judge or judge determines, in the exercise of his discretion, that such a release will not  
5 reasonably assure the appearance of the person as required. When such a determination is  
6 made, the associate circuit judge or judge may either in lieu of or in addition to the above  
7 methods of release, impose any or any combination of the following conditions of release  
8 which will reasonably assure the appearance of the person for trial:

9           (1) Place the person in the custody of a designated person or organization agreeing to  
10 supervise him;

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

13           (3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit  
14 of cash in lieu thereof, **and the bail bond shall reflect the seriousness of the current**  
15 **charge and ensure the amount is sufficiently high enough to deter flight;**

16           (4) Require the person to report regularly to some officer of the court, or peace  
17 officer, in such manner as the associate circuit judge or judge directs **but shall be every**  
18 **thirty days if the defendant is a prior offender for offenses committed under subdivision**  
19 **(3) of subsection 1 of section 544.453;**

20 (5) Require the execution of a bond in a given sum and the deposit in the registry of  
21 the court of ten percent, or such lesser percent as the judge directs, of the sum in cash or  
22 negotiable bonds of the United States or of the state of Missouri or any political subdivision  
23 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  
26 the judge finds the person unable to afford the costs associated with electronic monitoring, the  
27 judge may order that the person be placed on house arrest with electronic monitoring if the  
28 county commission agrees to pay from the general revenue of the county the costs of such  
29 monitoring. If the person on house arrest is unable to afford the costs associated with  
30 electronic monitoring and the county commission does not agree to pay the costs of such  
31 electronic monitoring, the judge shall not order that the person be placed on house arrest with  
32 electronic monitoring;

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

36 2. In determining which conditions of release will reasonably assure appearance, the  
37 associate circuit judge or judge shall, on the basis of available information, take into account  
38 the nature and circumstances of the offense charged, the weight of the evidence against the  
39 accused, the accused's family ties, employment, financial resources, character and mental  
40 condition, the length of his residence in the community, his record of convictions, and his  
41 record of appearance at court proceedings or flight to avoid prosecution or failure to appear at  
42 court proceedings.

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

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

53 5. An associate circuit judge or judge ordering the release of a person on any  
54 condition specified in this section may at any time amend his order to impose additional or  
55 different conditions of release; except that, if the imposition of such additional or different  
56 conditions results in the detention of the person as a result of his inability to meet such

57 conditions or in the release of the person on a condition requiring him to return to custody  
58 after specified hours, the provisions of subsection 4 of this section shall apply.

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

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

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

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

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