

SECOND REGULAR SESSION

HOUSE BILL NO. 3481

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COSTLOW.

7429H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend supreme court rule 33.01, relating to conditions of release from custody in criminal proceedings, with a delayed effective date.

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

Section A. Supreme court rule 33.01 is amended, to read as follows:

33.01. Misdemeanors or Felonies - Right to Release - Conditions

- 2 (a) A defendant charged with a bailable offense shall be entitled to be released from
3 custody pending trial or other stage of the criminal proceedings.
- 4 (b) The defendant's release shall be upon the conditions that:
- 5 (1) The defendant will appear in the court in which the case is prosecuted or appealed,
6 from time to time as required to answer the criminal charge;
- 7 (2) The defendant will submit to the orders, judgment and sentence, and process of the
8 court having jurisdiction over the defendant;
- 9 (3) The defendant shall not commit any new offenses and shall not tamper with any
10 victim or witness in the case, nor have any person do so on the defendant's behalf; and
- 11 (4) The defendant will comply fully with any and all conditions imposed by the court in
12 granting release.
- 13
- 14 (c) The court shall release the defendant on the defendant's own recognizance subject
15 only to the conditions under subsection (b) with no additional conditions of release unless the
16 court determines such release will not secure the appearance of the defendant at trial, or at any
17 other stage of the criminal proceedings, or the safety of the community or other person,

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.

18 including but not limited to the crime victims and witnesses. If the court so determines, it shall
19 set and impose additional conditions of release pursuant to this subsection.

20 The court shall set and impose the least restrictive condition or combination of conditions
21 of release, and the court shall not set or impose any condition or combination of conditions of
22 release greater than necessary to secure the appearance of the defendant at trial, or at any other
23 stage of the criminal proceedings, or the safety of the community or other person, including but
24 not limited to the crime victims and witnesses.

25 ~~[When considering the least restrictive condition or combination of conditions of release~~
26 ~~to set and impose, the court shall first consider non-monetary conditions. Should the court~~
27 ~~determine non-monetary conditions alone will not secure the appearance of the defendant at trial,~~
28 ~~or at any other stage of the criminal proceedings, or the safety of the community or other person,~~
29 ~~including but not limited to the crime victims and witnesses, then the court may consider~~
30 ~~monetary conditions or a combination of non-monetary and monetary conditions to satisfy the~~
31 ~~foregoing. After considering the defendant's ability to pay, a monetary condition fixed at more~~
32 ~~than is necessary to secure the appearance of the defendant at trial, or at any other stage of the~~
33 ~~criminal proceedings, or the safety of the community or other person, including but not limited~~
34 ~~to the crime victims and witnesses, is impermissible.] **The court shall have discretion to**~~
35 **impose monetary or non-monetary conditions of release as the court determines**
36 **appropriate under the individual circumstances of the defendant and the case. However,**
37 **in making this determination, the court shall give substantial weight to:**

- 38 (1) **The defendant's prior criminal convictions or history of criminal activity;**
39 (2) **Any prior failures to appear in court by the defendant;**
40 (3) **The nature and seriousness of the current criminal charge; and**
41 (4) **Any known risk to the safety of the community or other person.**

42 **The court shall not be required to exhaust non-monetary conditions before setting**
43 **monetary conditions if the court determines that such monetary conditions are necessary**
44 **to reasonably assure the appearance of the defendant and protect the safety of the public**
45 **or other persons. The discretion exhausted by the court under this rule shall be presumed**
46 **to be valid and shall not be disturbed upon review absent a clear abuse of discretion.**

47 (d) If the court determines additional conditions of release are required pursuant to ~~[this]~~
48 subsection (c), it shall set and impose one or more of the following conditions of release:

- 49 (1) Place the defendant in the custody of a designated person or organization agreeing
50 to supervise the defendant;

51 (2) Place restrictions on the travel, association, or place of abode of the defendant during
52 the period of release, including the holding by the court of the defendant's passport;

53 (3) Require the defendant to report regularly to some officer of the court or peace officer,
54 in such manner as the court directs;

55 (4) Require the use of electronic monitoring of defendant's location, the testing of
56 defendant for drug or alcohol use, or the installation and use of ignition interlock devices. The
57 court may order the eligible defendant to pay all or a portion of the costs of such conditions, but
58 the court shall consider how best to minimize the costs to the defendant and waive the costs for
59 an eligible defendant who is indigent and who has demonstrated to the court an inability to pay
60 all or a portion of the costs;

61 (5) Require the defendant to seek employment, to maintain employment, or to maintain
62 or commence an educational program;

63 (6) Require the defendant to comply with a specified curfew;

64 (7) Require the defendant to refrain from possessing a firearm or other deadly weapon;

65 (8) Require the defendant to abstain from possession or use of alcohol or any controlled
66 substance without a physician's prescription;

67 (9) Require the defendant to undergo available medical, psychological or psychiatric
68 treatment, including treatment for drug or alcohol dependency and remain in a specified
69 institution if required for that purpose;

70 (10) Require the defendant to return to custody for specified hours following release for
71 employment, school, treatment, or other limited purpose;

72 (11) Require the defendant to be placed on home supervision with or without the use of
73 an electronic monitoring device. The court may order the eligible defendant to pay all or a
74 portion of the costs of the electronic monitoring, but the court shall consider how best to
75 minimize the costs of such condition to the defendant and waive the costs for an eligible
76 defendant who is indigent and who has demonstrated to the court an inability to pay all or a
77 portion of the costs;

78 (12) Require the defendant to execute a monetary bond in a stated amount wherein the
79 defendant promises to pay to the court the stated amount should the defendant fail to appear or
80 abide by the conditions of release;

81 (13) Require the execution of a monetary bond in a stated amount with sufficient sureties,
82 or the deposit in the registry of the court of a sum in cash or negotiable bonds of the United
83 States or the State of Missouri or any political subdivision;

84 (14) Require the execution of a monetary bond in a stated amount and the deposit in the
85 registry of the court of 10 percent, or such lesser sum as the court directs, of such sum in cash
86 or negotiable bonds of the United States or the State of Missouri or any political subdivision;

87 (15) Require the deposit of a property bond of sufficient value as approved and directed
88 by the court;

89 (16) Impose other conditions necessary to secure the appearance of the defendant at trial,
90 or at any other stage of the criminal proceedings, or the safety of the community or other person,
91 including but not limited to the crime victims and witnesses.

92 ~~[(d)]~~ (e) Should the court determine upon clear and convincing evidence that no
93 combination of non-monetary conditions and monetary conditions will secure the safety of the
94 community or other person, including but not limited to the crime victims and witnesses, then
95 the court shall order the defendant detained pending trial or any other stage of the criminal
96 proceedings. A defendant so detained shall, upon written request filed after arraignment, be
97 entitled to a trial which begins within 120 days of the defendant's request or within 120 days of
98 an order granting a change of venue, whichever occurs later. Any request by the defendant to
99 continue the trial beyond the 120 days shall be considered a waiver by the defendant of the right
100 to have the trial conducted within 120 days.

101 ~~[(e)]~~ (f) In determining whether to detain the defendant pursuant to subsection ~~[(d)]~~ (e)
102 or release the defendant with a condition or combination of conditions of release, if any,
103 pursuant to subsection (c), the court shall base its determination on the individual circumstances
104 of the defendant and the case. Based on available information, the court shall take into account:
105 the nature and circumstances of the offense charged; the weight of the evidence against the
106 defendant; the defendant's family ties, employment, financial resources, including ability to pay,
107 character, and mental condition; the length of the defendant's residence in the community; the
108 defendant's record of convictions; the defendant's record of appearance at court proceedings or
109 flight to avoid prosecution or failure to appear at court proceedings; whether the defendant was
110 on probation, parole or release pending trial or appeal at the time the offense for which the court
111 is considering detention or release was committed; and any validated evidentiary-based risk
112 assessment tool approved by the Supreme Court of Missouri.

113 ~~[(f)]~~ (g) A court detaining or releasing the defendant under this Rule shall enter an order
114 stating the condition or combination of conditions of release, if any, set and imposed by the
115 court. If the defendant is detained and unable to comply with any condition of release, the
116 defendant shall have the right to a release hearing pursuant to Rule 33.05. At any hearing
117 conducted under Rule 33, the court shall permit but not require either party to make a record on
118 the defendant's financial status and ability to pay any monetary condition or other relevant issue.
119 At such hearing, the court shall also make written or oral findings on the record supporting the
120 reasons for detention or conditions set and imposed. The court shall inform the defendant of the
121 conditions set and imposed, if any, and that the conditions of release may be revoked and the
122 defendant detained until trial or other stage of the criminal proceedings for violation of any of

123 the conditions of release and that a warrant for the defendant's arrest may be issued immediately
124 upon notification to the court of any such violation.

Section B. Section A of this act shall become effective on January 1, 2027.

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