

FIRST REGULAR SESSION

SENATE BILL NO. 327

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 14, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1617S.01I

AN ACT

To repeal sections 544.455 and 557.011, RSMo, and to enact in lieu thereof two new sections relating to the cost of electronic monitoring, with existing penalty provisions.

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

Section A. Sections 544.455 and 557.011, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 544.455 and 557.011, to read as follows:

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

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

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

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

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

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

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

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

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

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

557.011. 1. Every person found guilty of an offense shall be dealt with by
2 the court in accordance with the provisions of this chapter, except that for
3 offenses defined outside this code and not repealed, the term of imprisonment or
4 the fine that may be imposed is that provided in the statute defining the offense;
5 however, the conditional release term of any sentence of a term of years shall be
6 determined as provided in subsection 4 of section 558.011.

7 2. Whenever any person has been found guilty of a felony or a
8 misdemeanor the court shall make one or more of the following dispositions of the
9 offender in any appropriate combination. The court may:

10 (1) Sentence the person to a term of imprisonment as authorized by
11 chapter 558;

12 (2) Sentence the person to pay a fine as authorized by chapter 560;

13 (3) Suspend the imposition of sentence, with or without placing the person
14 on probation;

15 (4) Pronounce sentence and suspend its execution, placing the person on
16 probation;

17 (5) Impose a period of detention as a condition of probation, as authorized
18 by section 559.026.

19 3. Whenever any person has been found guilty of an infraction, the court
20 shall make one or more of the following dispositions of the offender in any
21 appropriate combination. The court may:

22 (1) Sentence the person to pay a fine as authorized by chapter 560;

23 (2) Suspend the imposition of sentence, with or without placing the person
24 on probation;

25 (3) Pronounce sentence and suspend its execution, placing the person on
26 probation.

27 4. Whenever any organization has been found guilty of an offense, the
28 court shall make one or more of the following dispositions of the organization in
29 any appropriate combination. The court may:

30 (1) Sentence the organization to pay a fine as authorized by chapter 560;

31 (2) Suspend the imposition of sentence, with or without placing the
32 organization on probation;

33 (3) Pronounce sentence and suspend its execution, placing the
34 organization on probation;

35 (4) Impose any special sentence or sanction authorized by law.

36 5. This chapter shall not be construed to deprive the court of any
37 authority conferred by law to decree a forfeiture of property, suspend or cancel
38 a license, remove a person from office, or impose any other civil penalty. An
39 appropriate order exercising such authority may be included as part of any
40 sentence.

41 6. In the event a sentence of confinement is ordered executed, a court may
42 order that an individual serve all or any portion of such sentence on electronic
43 monitoring[.]; except that all costs associated with the electronic monitoring shall
44 be charged to the person on house arrest. If the judge finds the person unable to
45 afford the costs associated with electronic monitoring, [then] the judge [shall not]
46 **may** order that the person be placed on house arrest with electronic monitoring
47 **if the county commission agrees to pay the costs of such monitoring.**
48 **If the person on house arrest is unable to afford the costs associated**
49 **with electronic monitoring and the county commission does not agree**
50 **to pay from the general revenue of the county the costs of such**

51 **electronic monitoring, the judge shall not order that the person be**
52 **placed on house arrest with electronic monitoring.**

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Bill

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