

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 387**  
**96TH GENERAL ASSEMBLY**

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 7, 2011, with recommendation that the Senate Committee Substitute do pass.

1786S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 544.455, 544.470, and 557.011, RSMo, and to enact in lieu thereof four new sections relating to electronic monitoring of certain offenders.

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

Section A. Sections 544.455, 544.470, and 557.011, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 221.025,  
3 544.455, 544.470, and 557.011, to read as follows:

**221.025. 1. As an alternative to confinement, an individual may**  
2 **be placed on electronic monitoring pursuant to subsection 1 of section**  
3 **544.455 or subsection 6 of section 557.011, with such terms and**  
4 **conditions as a court shall deem just and appropriate under the**  
5 **circumstances.**

6 **2. A judge may, in his or her discretion, credit any such period**  
7 **of electronic monitoring against any period of confinement or**  
8 **incarceration ordered, however, electronic monitoring shall not be**  
9 **considered to be in custody or incarceration for purposes of eligibility**  
10 **for the MO HealthNet program.**

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

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

8 methods of release, impose any or any combination of the following conditions of  
9 release which will reasonably assure the appearance of the person for trial:

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

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

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

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

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,**  
23 **except that all costs associated with the electronic monitoring shall be**  
24 **charged to the person on house arrest. If the judge finds the person**  
25 **unable to afford the costs associated with electronic monitoring, then**  
26 **the judge shall not order that the person be placed on house arrest with**  
27 **electronic monitoring;**

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

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

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

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

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

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

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

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

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

544.470. 1. If the offense is not bailable, **if the individual is not**  
2 **granted electronic monitoring**, or if the [person] **individual** does not meet  
3 the conditions for release, as provided in section 544.455, the [prisoner]  
4 **individual** shall be committed to the jail of the county in which the same is to  
5 be tried, there to remain until [he] **such individual** be discharged by due course  
6 of law.

7           2. There shall be a presumption that releasing the person under any  
8 conditions as provided by section 544.455 shall not reasonably assure the  
9 appearance of the person as required if the circuit judge or associate circuit judge

10 reasonably believes that the person is an alien unlawfully present in the United  
11 States. If such presumption exists, the person shall be committed to the jail, as  
12 provided in subsection 1 of this section, until such person provides verification of  
13 his or her lawful presence in the United States to rebut such presumption. If the  
14 person adequately proves his or her lawful presence, the circuit judge or associate  
15 circuit judge shall review the issue of release, as provided under section 544.455,  
16 without regard to previous issues concerning whether the person is lawfully  
17 present in the United States. If the person cannot prove his or her lawful  
18 presence, the person shall continue to be committed to the jail and remain until  
19 discharged by due course of law.

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**  
42 **court may order that an individual serve all or any portion of such**  
43 **sentence on electronic monitoring, except that all costs associated with**  
44 **the electronic monitoring shall be charged to the person on house**  
45 **arrest. If the judge finds the person unable to afford the costs**  
46 **associated with electronic monitoring, then the judge shall not order**  
47 **that the person be placed on house arrest with electronic monitoring.**

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