

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

1786L.06C

D. ADAM CRUMBLISS, Chief Clerk

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, with penalty provisions.

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Section A. Sections 544.455, 544.470, and 557.011, RSMo, are repealed and four new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

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

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

**11 3. Notwithstanding any provision of this section to the contrary, a court shall not
12 place an individual on electronic monitoring if that individual is a prior, persistent,
13 aggravated, or chronic offender sentenced pursuant to section 577.023.**

544.455. 1. Any person charged with a bailable offense, at his **or her** appearance before
2 an associate circuit judge or judge may be ordered released pending trial, appeal, or other stage
3 of the proceedings against him on his personal recognizance, unless the associate circuit judge

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.

4 or judge determines, in the exercise of his discretion, that such a release will not reasonably
5 assure the appearance of the person as required. When such a determination is made, the
6 associate circuit judge or judge may either in lieu of or in addition to the above methods of
7 release, impose any or any combination of the following conditions of release which will
8 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 the
12 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;

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

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

20 (6) **Place the person on house arrest with electronic monitoring, except that all costs**
21 **associated with the electronic monitoring shall be charged to the person on house arrest.**
22 **If the judge finds the person unable to afford the costs associated with electronic**
23 **monitoring, then the judge shall not order that the person be placed on house arrest with**
24 **electronic monitoring;**

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

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

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

38 4. A person for whom conditions of release are imposed and who after twenty-four hours
39 from the time of the release hearing continues to be detained as a result of his inability to meet

40 the conditions of release, shall, upon application, be entitled to have the condition reviewed by
41 the associate circuit judge or judge who imposed them. The motion shall be determined
42 promptly.

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

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

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

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

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

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

6 2. There shall be a presumption that releasing the person under any conditions as
7 provided by section 544.455 shall not reasonably assure the appearance of the person as required
8 if the circuit judge or associate circuit judge reasonably believes that the person is an alien
9 unlawfully present in the United States. If such presumption exists, the person shall be
10 committed to the jail, as provided in subsection 1 of this section, until such person provides
11 verification of his or her lawful presence in the United States to rebut such presumption. If the
12 person adequately proves his or her lawful presence, the circuit judge or associate circuit judge
13 shall review the issue of release, as provided under section 544.455, without regard to previous
14 issues concerning whether the person is lawfully present in the United States. If the person

15 cannot prove his or her lawful presence, the person shall continue to be committed to the jail and
16 remain until discharged by due course of law.

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

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

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

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

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

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

13 (5) Impose a period of detention as a condition of probation, as authorized by section
14 559.026.

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

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

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

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

21 4. Whenever any organization has been found guilty of an offense, the court shall make
22 one or more of the following dispositions of the organization in any appropriate combination.

23 The court may:

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

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

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

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

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

33 **6. In the event a sentence of confinement is ordered executed, a court may order**
34 **that an individual serve all or any portion of such sentence on electronic monitoring, except**

35 **that all costs associated with the electronic monitoring shall be charged to the person on**
36 **house arrest. If the judge finds the person unable to afford the costs associated with**
37 **electronic monitoring, then the judge shall not order that the person be placed on house**
38 **arrest with electronic monitoring.**

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