

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 327

AN ACT

To repeal sections 478.007, 544.455, and 557.011, RSMo, and to enact in lieu thereof three new sections relating to the supervision of criminal offenders, with existing penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 478.007, 544.455, and 557.011, RSMo,
2 are repealed and three new sections enacted in lieu thereof, to
3 be known as sections 478.007, 544.455, and 557.011, to read as
4 follows:

5 478.007. 1. Any circuit court, or any county with a
6 charter form of government and with more than six hundred
7 thousand but fewer than seven hundred thousand inhabitants with a
8 county municipal court established under section 66.010, may
9 establish a docket or court to provide an alternative for the
10 judicial system to dispose of cases in which a person has pleaded
11 guilty to driving while intoxicated or driving with excessive
12 blood alcohol content and:

13 (1) The person was operating a motor vehicle with at least
14 fifteen-hundredths of one percent or more by weight of alcohol in
15 such person's blood; or

16 (2) The person has previously pleaded guilty to or has been
17 found guilty of one or more intoxication-related traffic offenses
18 as defined by section 577.023; or

1 (3) The person has two or more previous alcohol-related
2 enforcement contacts as defined in section 302.525.

3 2. This docket or court shall combine judicial supervision,
4 drug testing, continuous alcohol monitoring, substance abuse
5 traffic offender program compliance, and treatment of DWI court
6 participants. The court may assess any and all necessary costs
7 for participation in DWI court against the participant. Any
8 money received from such assessed costs by a court from a
9 defendant shall not be considered court costs, charges, or fines.
10 This docket or court may operate in conjunction with a drug court
11 established pursuant to sections 478.001 to 478.006.

12 3. If the division of probation and parole is otherwise
13 unavailable to assist in the judicial supervision of any person
14 who wishes to enter a DWI court, a court-approved private
15 probation service may be utilized by the DWI court to fill the
16 division's role. In such case, any and all necessary additional
17 costs may be assessed against the participant. No person shall
18 be rejected from participating in DWI court solely for the reason
19 that the person does not reside in the city or county where the
20 applicable DWI court is located but the DWI court can base
21 acceptance into a treatment court program on its ability to
22 adequately provide services for the person or handle the
23 additional caseload.

24 544.455. 1. Any person charged with a bailable offense, at
25 his or her appearance before an associate circuit judge or judge
26 may be ordered released pending trial, appeal, or other stage of
27 the proceedings against him on his personal recognizance, unless
28 the associate circuit judge or judge determines, in the exercise

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

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

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

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

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

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

22 (6) Place the person on house arrest with electronic
23 monitoring[,]; except that all costs associated with the
24 electronic monitoring shall be charged to the person on house
25 arrest. If the judge finds the person unable to afford the costs
26 associated with electronic monitoring, [then] the judge [shall
27 not] may order that the person be placed on house arrest with
28 electronic monitoring if the county commission agrees to pay from

1 the general revenue of the county the costs of such monitoring.
2 If the person on house arrest is unable to afford the costs
3 associated with electronic monitoring and the county commission
4 does not agree to pay the costs of such electronic monitoring,
5 the judge shall not order that the person be placed on house
6 arrest with electronic monitoring;

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

10 2. In determining which conditions of release will
11 reasonably assure appearance, the associate circuit judge or
12 judge shall, on the basis of available information, take into
13 account the nature and circumstances of the offense charged, the
14 weight of the evidence against the accused, the accused's family
15 ties, employment, financial resources, character and mental
16 condition, the length of his residence in the community, his
17 record of convictions, and his record of appearance at court
18 proceedings or flight to avoid prosecution or failure to appear
19 at court proceedings.

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

27 4. A person for whom conditions of release are imposed and
28 who after twenty-four hours from the time of the release hearing

1 continues to be detained as a result of his inability to meet the
2 conditions of release, shall, upon application, be entitled to
3 have the condition reviewed by the associate circuit judge or
4 judge who imposed them. The motion shall be determined promptly.

5 5. An associate circuit judge or judge ordering the release
6 of a person on any condition specified in this section may at any
7 time amend his order to impose additional or different conditions
8 of release; except that, if the imposition of such additional or
9 different conditions results in the detention of the person as a
10 result of his inability to meet such conditions or in the release
11 of the person on a condition requiring him to return to custody
12 after specified hours, the provisions of subsection 4 of this
13 section shall apply.

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

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

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

28 9. A circuit court may adopt a local rule authorizing the

1 pretrial release on electronic monitoring pursuant to subdivision
2 (6) of subsection 1 of this section in lieu of incarceration of
3 individuals charged with offenses specifically identified
4 therein.

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

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

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

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

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

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

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

27 3. Whenever any person has been found guilty of an
28 infraction, the court shall make one or more of the following

1 dispositions of the offender in any appropriate combination. The
2 court may:

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

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

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

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

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

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

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

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

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

27 6. In the event a sentence of confinement is ordered
28 executed, a court may order that an individual serve all or any

1 portion of such sentence on electronic monitoring[,]; except that
2 all costs associated with the electronic monitoring shall be
3 charged to the person on house arrest. If the judge finds the
4 person unable to afford the costs associated with electronic
5 monitoring, [then] the judge [shall not] may order that the
6 person be placed on house arrest with electronic monitoring if
7 the county commission agrees to pay the costs of such
8 monitoring. If the person on house arrest is unable to afford
9 the costs associated with electronic monitoring and the county
10 commission does not agree to pay from the general revenue of the
11 county the costs of such electronic monitoring, the judge shall
12 not order that the person be placed on house arrest with
13 electronic monitoring.

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21 Bob Dixon

Elijah Haahr