

SENATE BILL NO. 888

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

4091S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 544, RSMo, by adding thereto one new section relating to the release of a defendant.

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

Section A. Chapter 544, RSMo, is amended by adding thereto
2 one new section, to be known as section 544.453, to read as
3 follows:

544.453. Notwithstanding any provision of the law or
2 **court rule to the contrary, the following shall apply when a**
3 **judge or judicial officer sets bail in all courts in**
4 **Missouri and shall be applicable to all offenses charged:**

5 (1) When setting bail and conditions of release in
6 Missouri, consideration of public safety shall be the
7 paramount consideration;

8 (2) There shall be no requirement that anything but
9 probable cause be established for an arrest warrant to be
10 sought and issued;

11 (3) A release on one's own recognizance shall consist
12 of the defendant's signature and promise to appear in court
13 as required and also to comply with all nonmonetary
14 conditions of release without having to post any cash,
15 surety, or property as security or being required to later
16 pay the same upon failing to appear in court or comply with
17 nonmonetary conditions of release;

18 (4) There shall be no presumptions in favor of release
19 on one's own recognizance in any category of offenses,
20 specific offenses, or gradations of offenses. Judges shall
21 have discretion to release a defendant on his or her own
22 recognizance if permitted by law;

23 (5) There shall be a presumption against release on
24 one's own recognizance with or without nonmonetary
25 conditions of release that may be overcome by clear and
26 convincing evidence that a person is not a flight risk or
27 danger to the community in the following circumstances:

28 (a) A person has been convicted of a prior felony,
29 sexual offense, or violent charge within the past five years;

30 (b) A person is already on bond on a pending charge;

31 (c) A person is on probation or parole;

32 (d) A person has committed continuing or severe acts
33 of arson, rioting, or looting, which may endanger public
34 safety if released;

35 (e) A person has failed to appear in court as required
36 once in the previous three years; and

37 (f) The results of a risk assessment tool or process,
38 if available, indicate that the person is not low risk;

39 (6) Partially secured bonds, bonds in the sum of ten
40 percent to the court, or unsecured bonds shall not be
41 permitted in Missouri. A judge shall set bail in a single
42 monetary amount, which shall be fully secured by the
43 defendant in a method of the defendant's choosing, including
44 cash, property, or a surety bond, or a combination thereof.
45 Courts shall not be permitted to discriminate against a
46 defendant due to the defendant's selection of a type of
47 bond, whether it be cash, property, or a surety bond, in
48 order to fully secure the defendant's release as required
49 and shall not require a particular type of bond; and

50 (7) Attorneys shall not be permitted to recover, nor
51 are courts allowed to enforce, any lien or claim on bail
52 proceeds deposited with the court, whether it be cash,
53 property, or a surety bond, within a criminal case. All
54 proceeds shall be returned to the defendant upon release of
55 the bond.

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