

SECOND REGULAR SESSION

[CORRECTED]

# SENATE BILL NO. 1057

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5306S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend supreme court rule 33.01, relating to conditions of release from custody in criminal proceedings, with an effective date.

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

Section A. Supreme court rule 33.01 is amended, to read  
2 as follows:

33.01. Misdemeanors or Felonies - Right to Release -  
2 Conditions

3 (a) A defendant charged with aailable offense shall  
4 be entitled to be released from custody pending trial or  
5 other stage of the criminal proceedings.

6 (b) The defendant's release shall be upon the  
7 conditions that:

8 (1) The defendant will appear in the court in which the  
9 case is prosecuted or appealed, from time to time as  
10 required to answer the criminal charge;

11 (2) The defendant will submit to the orders, judgment  
12 and sentence, and process of the court having jurisdiction  
13 over the defendant;

14 (3) The defendant shall not commit any new offenses and  
15 shall not tamper with any victim or witness in the case, nor  
16 have any person do so on the defendant's behalf; and

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

17 (4) The defendant will comply fully with any and all  
18 conditions imposed by the court in granting release.

19 (c) The court shall release the defendant on the  
20 defendant's own recognizance subject only to the conditions  
21 under subsection (b) with no additional conditions of  
22 release unless the court determines such release will not  
23 secure the appearance of the defendant at trial, or at any  
24 other stage of the criminal proceedings, or the safety of  
25 the community or other person, including but not limited to  
26 the crime victims and witnesses. If the court so determines,  
27 it shall set and impose additional conditions of release  
28 pursuant to this subsection.

29 The court shall set and impose the least restrictive  
30 condition or combination of conditions of release, and the  
31 court shall not set or impose any condition or combination  
32 of conditions of release greater than necessary to secure  
33 the appearance of the defendant at trial, or at any other  
34 stage of the criminal proceedings, or the safety of the  
35 community or other person, including but not limited to the  
36 crime victims and witnesses.

37 [When considering the least restrictive condition or  
38 combination of conditions of release to set and impose, the  
39 court shall first consider non-monetary conditions. Should  
40 the court determine non-monetary conditions alone will not  
41 secure the appearance of the defendant at trial, or at any  
42 other stage of the criminal proceedings, or the safety of  
43 the community or other person, including but not limited to  
44 the crime victims and witnesses, then the court may consider  
45 monetary conditions or a combination of non-monetary and  
46 monetary conditions to satisfy the foregoing. After  
47 considering the defendant's ability to pay, a monetary  
48 condition fixed at more than is necessary to secure the

49 appearance of the defendant at trial, or at any other stage  
50 of the criminal proceedings, or the safety of the community  
51 or other person, including but not limited to the crime  
52 victims and witnesses, is impermissible.] **The court shall**  
53 **have discretion to impose monetary or non-monetary**  
54 **conditions of release as the court determines appropriate**  
55 **under the individual circumstances of the defendant and the**  
56 **case. However, in making this determination, the court shall**  
57 **give substantial weight to:**

58 (1) **The defendant's prior criminal convictions or**  
59 **history of criminal activity;**

60 (2) **Any prior failures to appear in court by the**  
61 **defendant;**

62 (3) **The nature and seriousness of the current criminal**  
63 **charge; and**

64 (4) **Any known risk to the safety of the community or**  
65 **other person.**

66 **The court shall not be required to exhaust non-monetary**  
67 **conditions before setting monetary conditions if the court**  
68 **determines that such monetary conditions are necessary to**  
69 **reasonably assure the appearance of the defendant and**  
70 **protect the safety of the public or other persons. The**  
71 **discretion exhausted by the court under this rule shall be**  
72 **presumed to be valid and shall not be disturbed upon review**  
73 **absent a clear abuse of discretion.**

74 (d) **If the court determines additional conditions of**  
75 **release are required pursuant to [this] subsection (c), it**  
76 **shall set and impose one or more of the following conditions**  
77 **of release:**

78 (1) **Place the defendant in the custody of a designated**  
79 **person or organization agreeing to supervise the defendant;**

80           (2) Place restrictions on the travel, association, or  
81 place of abode of the defendant during the period of  
82 release, including the holding by the court of the  
83 defendant's passport;

84           (3) Require the defendant to report regularly to some  
85 officer of the court or peace officer, in such manner as the  
86 court directs;

87           (4) Require the use of electronic monitoring of  
88 defendant's location, the testing of defendant for drug or  
89 alcohol use, or the installation and use of ignition  
90 interlock devices. The court may order the eligible  
91 defendant to pay all or a portion of the costs of such  
92 conditions, but the court shall consider how best to  
93 minimize the costs to the defendant and waive the costs for  
94 an eligible defendant who is indigent and who has  
95 demonstrated to the court an inability to pay all or a  
96 portion of the costs;

97           (5) Require the defendant to seek employment, to  
98 maintain employment, or to maintain or commence an  
99 educational program;

100           (6) Require the defendant to comply with a specified  
101 curfew;

102           (7) Require the defendant to refrain from possessing a  
103 firearm or other deadly weapon;

104           (8) Require the defendant to abstain from possession or  
105 use of alcohol or any controlled substance without a  
106 physician's prescription;

107           (9) Require the defendant to undergo available medical,  
108 psychological or psychiatric treatment, including treatment  
109 for drug or alcohol dependency and remain in a specified  
110 institution if required for that purpose;

111           (10) Require the defendant to return to custody for  
112 specified hours following release for employment, school,  
113 treatment, or other limited purpose;

114           (11) Require the defendant to be placed on home  
115 supervision with or without the use of an electronic  
116 monitoring device. The court may order the eligible  
117 defendant to pay all or a portion of the costs of the  
118 electronic monitoring, but the court shall consider how best  
119 to minimize the costs of such condition to the defendant and  
120 waive the costs for an eligible defendant who is indigent  
121 and who has demonstrated to the court an inability to pay  
122 all or a portion of the costs;

123           (12) Require the defendant to execute a monetary bond  
124 in a stated amount wherein the defendant promises to pay to  
125 the court the stated amount should the defendant fail to  
126 appear or abide by the conditions of release;

127           (13) Require the execution of a monetary bond in a  
128 stated amount with sufficient sureties, or the deposit in  
129 the registry of the court of a sum in cash or negotiable  
130 bonds of the United States or the State of Missouri or any  
131 political subdivision;

132           (14) Require the execution of a monetary bond in a  
133 stated amount and the deposit in the registry of the court  
134 of 10 percent, or such lesser sum as the court directs, of  
135 such sum in cash or negotiable bonds of the United States or  
136 the State of Missouri or any political subdivision;

137           (15) Require the deposit of a property bond of  
138 sufficient value as approved and directed by the court;

139           (16) Impose other conditions necessary to secure the  
140 appearance of the defendant at trial, or at any other stage  
141 of the criminal proceedings, or the safety of the community

142 or other person, including but not limited to the crime  
143 victims and witnesses.

144 **[(d)] (e)** Should the court determine upon clear and  
145 convincing evidence that no combination of non-monetary  
146 conditions and monetary conditions will secure the safety of  
147 the community or other person, including but not limited to  
148 the crime victims and witnesses, then the court shall order  
149 the defendant detained pending trial or any other stage of  
150 the criminal proceedings. A defendant so detained shall,  
151 upon written request filed after arraignment, be entitled to  
152 a trial which begins within 120 days of the defendant's  
153 request or within 120 days of an order granting a change of  
154 venue, whichever occurs later. Any request by the defendant  
155 to continue the trial beyond the 120 days shall be  
156 considered a waiver by the defendant of the right to have  
157 the trial conducted within 120 days.

158 **[(e)] (f)** In determining whether to detain the  
159 defendant pursuant to subsection **[(d)] (e)** or release the  
160 defendant with a condition or combination of conditions of  
161 release, if any, pursuant to subsection (c), the court shall  
162 base its determination on the individual circumstances of  
163 the defendant and the case. Based on available information,  
164 the court shall take into account: the nature and  
165 circumstances of the offense charged; the weight of the  
166 evidence against the defendant; the defendant's family ties,  
167 employment, financial resources, including ability to pay,  
168 character, and mental condition; the length of the  
169 defendant's residence in the community; the defendant's  
170 record of convictions; the defendant's record of appearance  
171 at court proceedings or flight to avoid prosecution or  
172 failure to appear at court proceedings; whether the  
173 defendant was on probation, parole or release pending trial

174 or appeal at the time the offense for which the court is  
175 considering detention or release was committed; and any  
176 validated evidentiary-based risk assessment tool approved by  
177 the Supreme Court of Missouri.

178 [(f)] (g) A court detaining or releasing the defendant  
179 under this Rule shall enter an order stating the condition  
180 or combination of conditions of release, if any, set and  
181 imposed by the court. If the defendant is detained and  
182 unable to comply with any condition of release, the  
183 defendant shall have the right to a release hearing pursuant  
184 to Rule 33.05. At any hearing conducted under Rule 33, the  
185 court shall permit but not require either party to make a  
186 record on the defendant's financial status and ability to  
187 pay any monetary condition or other relevant issue. At such  
188 hearing, the court shall also make written or oral findings  
189 on the record supporting the reasons for detention or  
190 conditions set and imposed. The court shall inform the  
191 defendant of the conditions set and imposed, if any, and  
192 that the conditions of release may be revoked and the  
193 defendant detained until trial or other stage of the  
194 criminal proceedings for violation of any of the conditions  
195 of release and that a warrant for the defendant's arrest may  
196 be issued immediately upon notification to the court of any  
197 such violation.

Section B. Section A of this act shall become  
2 effective on January 1, 2027.

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