

SENATE BILL NO. 1243

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

4489S.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

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

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

(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;

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

(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

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

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

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 If the court determines additional conditions of
75 release are required pursuant to this subsection, it shall
76 set and impose one or more of the following conditions of
77 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;

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

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

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

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

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

(16) Impose other conditions necessary to secure the appearance of the defendant at trial, or at any other stage of the criminal proceedings, or the safety of the community or other person, including but not limited to the crime victims and witnesses.

(d) Should the court determine upon clear and convincing evidence that no combination of non-monetary

conditions and monetary conditions will secure the safety of the community or other person, including but not limited to the crime victims and witnesses, then the court shall order the defendant detained pending trial or any other stage of the criminal proceedings. A defendant so detained shall, upon written request filed after arraignment, be entitled to a trial which begins within 120 days of the defendant's request or within 120 days of an order granting a change of venue, whichever occurs later. Any request by the defendant to continue the trial beyond the 120 days shall be considered a waiver by the defendant of the right to have the trial conducted within 120 days.

(e) In determining whether to detain the defendant pursuant to subsection (d) or release the defendant with a condition or combination of conditions of release, if any, pursuant to subsection (c), the court shall base its determination on the individual circumstances of the defendant and the case. Based on available information, the court shall take into account: the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, including ability to pay, character, and mental condition; the length of the defendant's residence in the community; the defendant's record of convictions; the defendant's record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; whether the defendant was on probation, parole or release pending trial or appeal at the time the offense for which the court is considering detention or release was committed; and any validated evidentiary-based risk assessment tool approved by the Supreme Court of Missouri.

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

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

✓