

SECOND REGULAR SESSION

SENATE BILL NO. 995

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 11, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4698S.02I

AN ACT

To repeal sections 544.020 and 544.455, RSMo, and to enact in lieu thereof three new sections relating to the release of a person charged with a bailable offense.

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

Section A. Sections 544.020 and 544.455, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 544.020, 544.454,
3 and 544.455, to read as follows:

544.020. [Whenever complaint shall be made, in writing and upon oath,
2 to any associate circuit judge setting forth that a felony has been committed, and
3 the name of the person accused thereof, it shall be the duty of such associate
4 circuit judge to issue a warrant reciting the accusation, and commanding the
5 officer to whom it shall be directed forthwith to take the accused and bring him
6 before such associate circuit judge, to be dealt with according to law. The
7 complaint may be made and the warrant may be issued via facsimile or other
8 electronic means.] **1. If a prosecuting attorney wishes to request an arrest
9 warrant at the initiation of a criminal case, the prosecutor shall file,
10 contemporaneously with the complaint, information, or indictment, a
11 completed risk assessment form pursuant to section 544.454, which
12 shall allege why a defendant shall be arrested and confined. A
13 summons shall be issued on all cases initiated without an
14 accompanying risk assessment form. A criminal case may be made and
15 the warrant may be issued via facsimile or other electronic means.**

**16 2. If the defendant is detained, he or she will be seen by a judge
17 in the issuing circuit for arraignment and a detention hearing
18 immediately upon the defendant's first appearance before the judge,
19 unless the defendant or prosecuting attorney seeks a**

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

20 continuance. Except for good cause, a continuance sought by the
21 defendant shall not exceed five days and a continuance sought by a
22 prosecuting attorney shall not exceed three days.

544.454. 1. When an associate circuit judge or judge considers
2 pretrial release, supervision, and bail for an arrested defendant, the
3 court shall consider whether the defendant constitutes a flight risk, is
4 unlikely to appear for trial, or is likely to be a danger to the public if
5 released. The associate circuit judge or judge shall utilize a risk
6 assessment system. Such a risk assessment system shall be adopted by
7 circuit judges and associate circuit judges in each judicial circuit for
8 the purposes of this section. The risk assessment system adopted by
9 each judicial circuit shall be in substantially the following form:

10 "Name: _____ Date of Assessment _____
11 Assessor name and agency: _____
12 Most Serious Present Charge: _____

13 Pretrial Scoring	Score
14 1. Age at first arrest	
15 a. 33 or older = 0 points b. 22-33 = 1 point c. under 22 = 2 points	_____
16 2. Prior failure to appear warrants past 36 months	
17 a. None = 0 points b. One point for each previous warrant	_____
18 3. Illegal drug use in past six months	
19 a. None = 0 points b. yes = 1 point	_____
20 4. Methamphetamine use/severe drug use problem	
21 a. No = 0 points b. Yes = 2 points	_____
22 5. Prior violence arrests	
23 a. No = 0 points b. 1 point for each violence arrest	_____
24 6. Residential stability	
25 a. Missouri current residence > 6 months = 0 points	
26 b. Missouri current residence < 6 months = 1 point	
27 c. Homeless or non-Missouri resident = 2 points	_____
28 7. Employment status	
29 a. Employed or student or retired = 0 points	
30 b. Unemployed = 2 points	_____
31 8. Prior felony incarcerations	
32 a. None or one = 0 points	
33 b. Two or more = 2 points	_____
34 9. Probation/parole status or pending charges at time of arrest	

35 a. No = 0 points b. Yes = 2 points _____

36

37 TOTAL SCORE _____

38 **Scored risk level: 0-5 points. Low risk (presumed no warrant pretrial)**

39 **6-10 points. Moderate risk (presumed supervision pretrial)**

40 **11 points or more. High risk (Judicial discretion)**

41 **Override**

42 **rationale:** _____

43 _____

44 _____

45 **Final Recommended Risk Level:** ___ **LOW**___ **MEDIUM** ___ **HIGH**

46 **Possible pretrial drug treatment/drug court track:**

47 ___ **YES** ___ **NO**

48 **Assessor's signature:** _____"

49 **If the risk assessment form is completed by a person other than the**
 50 **prosecuting attorney, the risk assessment form shall be signed in the**
 51 **presence of a notary public.**

52 **2. If the defendant poses a low risk of flight, is likely to appear**
 53 **for trial, and is not likely to be a danger to others, according to the risk**
 54 **assessment system, the court shall order the defendant released on**
 55 **unsecured bond or on the defendant's own recognizance subject to such**
 56 **other conditions as the court may order. A defendant's inability to**
 57 **financially afford a bail bond will not constitute a sufficient reason for**
 58 **the defendant to remain in pretrial detention.**

59 **3. If the defendant poses a moderate risk of flight, has a**
 60 **moderate risk of not appearing for trial, or poses a moderate risk of**
 61 **danger to others, according to the risk assessment system, the court**
 62 **shall release the defendant under the same conditions as in subsection**
 63 **2 of this section but shall consider ordering the defendant to be subject**
 64 **to electronic monitoring, intoxicant testing, increased supervision, or**
 65 **such other conditions as the court may order.**

66 **4. If a court determines that a defendant poses a high risk of**
 67 **flight, has a high risk of not appearing for trial, or poses a high risk of**
 68 **danger to others, the court may utilize its discretion in denying pretrial**
 69 **release or imposing pretrial release conditions. The reasons for the**
 70 **denial of release will be shown in the record by docket entry or written**
 71 **order.**

544.455. 1. Any person charged with a bailable offense, at his or her
2 appearance before an associate circuit judge or judge may be ordered released
3 pending trial, appeal, or other stage of the proceedings against him **or her** on his
4 **or her** personal recognizance, unless the associate circuit judge or judge
5 determines, [in the exercise of his discretion] **pursuant to section 544.454**, that
6 such a release will not reasonably assure the appearance of the person **or ensure**
7 **safety of other persons** as required. When such a determination is made, the
8 associate circuit judge or judge may either in lieu of or in addition to the above
9 methods of release, impose any or any combination of the following conditions of
10 release which will reasonably [assure] **ensure** the appearance of the person for
11 trial:

12 (1) Place the person in the custody of a designated person or organization
13 agreeing to supervise him **or her**;

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

16 (3) Require the execution of a bail bond with sufficient solvent sureties,
17 or the deposit of cash in lieu thereof, **unless a defendant's inability to**
18 **financially afford a bail bond is the only reason for a pretrial detention**;

19 (4) Require the person to report regularly to some officer of the court, [or]
20 peace officer, [in such manner] **or private company or organization** as the
21 associate circuit judge or judge directs;

22 (5) Require the execution of a bond in a given sum and the deposit in the
23 registry of the court of ten percent, or such lesser percent as the judge directs, of
24 the sum in cash or negotiable bonds of the United States or of the state of
25 Missouri or any political subdivision thereof, **unless a defendant's inability**
26 **to financially afford a bail bond is the only reason for a pretrial**
27 **detention**;

28 (6) Place the person on house arrest **or other geographical restriction**
29 with **or without** electronic monitoring; except that all costs associated with the
30 electronic monitoring shall be [charged to] **paid by** the person [on house arrest]
31 **so restricted**. If the judge finds the person unable to afford the costs associated
32 with electronic monitoring, the judge may order that the [person be placed on
33 house arrest with] **person's** electronic monitoring **be paid by the county**
34 **commission**, if the county commission agrees to pay from the general revenue
35 of the county the costs of such monitoring. If the [person on house arrest is
36 unable to afford the costs associated with electronic monitoring and] **defendant**

37 **or** the county commission does not agree to pay the costs of such electronic
38 monitoring, the judge shall not order that the person be placed on house arrest
39 with electronic monitoring;

40 (7) Impose any other condition deemed reasonably necessary to [assure]
41 **ensure** appearance as required, including **but not limited to** a condition
42 requiring that the person return to custody after specified hours.

43 2. In determining which conditions of release will reasonably [assure
44 appearance, the associate circuit judge or judge shall, on the basis of available
45 information, take into account the nature and circumstances of the offense
46 charged, the weight of the evidence against the accused, the accused's family ties,
47 employment, financial resources, character and mental condition, the length of
48 his residence in] **ensure appearance and safety of** the community[, his record
49 of convictions, and his record of appearance at court proceedings or flight to avoid
50 prosecution or failure to appear at court proceedings], **the associate circuit**
51 **judge or judge shall use the risk assessment system pursuant to section**
52 **544.454.**

53 3. An associate circuit judge or judge authorizing the release of a person
54 under this section shall issue an appropriate order containing a statement of the
55 conditions imposed, if any, shall inform such person of the penalties applicable
56 to violations of the conditions of [his] release and shall advise [him] **the**
57 **defendant** that a warrant for [his] arrest will be issued immediately upon any
58 such violation.

59 4. A person for whom conditions of release are imposed and who after
60 twenty-four hours from the time of the release hearing continues to be detained
61 [as a result of his inability to meet the conditions of release, shall, upon
62 application, be entitled to have the condition reviewed by the associate circuit
63 judge or judge who imposed them] **may file a motion to reopen the release**
64 **hearing for the introduction of newly acquired evidence showing that**
65 **the defendant will reappear and is not a danger to another person or**
66 **the community.** The motion shall be determined promptly **by the associate**
67 **circuit judge or judge who issued the conditions of release.**

68 5. An associate circuit judge or judge ordering the release of a person on
69 any condition specified in this section may at any time amend his order to impose
70 additional or different conditions of release; except that, if the imposition of such
71 additional or different conditions results in the detention of the person as a result
72 of his inability to meet such conditions [or in the release of the person on a

73 condition requiring him to return to custody after specified hours], the provisions
74 of subsection 4 of this section shall apply.

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

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

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

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

Bill ✓

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