

FIRST REGULAR SESSION

# HOUSE BILL NO. 666

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ROBERTS (77).

1040H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 544, RSMo, by adding thereto eighteen new sections relating to bail reform, with penalty provisions.

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

Section A. Chapter 544, RSMo, is amended by adding thereto eighteen new sections, to be known as sections 544.700, 544.702, 544.704, 544.708, 544.710, 544.712, 544.714, 544.716, 544.718, 544.720, 544.722, 544.724, 544.726, 544.728, 544.730, 544.732, 544.734, and 544.736, to read as follows:

**544.700. 1. Sections 544.700 to 544.736 shall be known and may be cited as the "Money Bail Reform Act of 2019".**

**2. As used in sections 544.700 to 544.736, the following terms shall mean:**

**(1) "Feloniously obtained", any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution that is possessed, received, or obtained through an unlawful act, transaction, or occurrence constituting a felony;**

**(2) "Pretrial risk assessment tool", the objective, standardized analysis of information about an arrested person that accurately measures the person's probability of appearing in court as required and the person's potential risk of criminal conduct while on pretrial release pending trial;**

**(3) "Pretrial services agency" or "pretrial services agent", an agency or agent responsible for gathering information about newly arrested defendants and preparing the recommendations considered by the court in deciding release options;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (4) "Pretrial services report", a report containing the results of the pretrial risk  
15 assessment tool and the pretrial services agency's recommendations on conditions of release;

16 (5) "Validated", developed through peer-reviewed research and statistical analysis  
17 and proven to produce results that are accurate, based on the characteristics of the  
18 population being assessed, in predicting the likelihood that a person will fail to appear for  
19 trial or act as a threat to the safety of the community during the period of time between the  
20 initial arrest and the subsequent trial for the offense.

544.702. 1. (1) Except as provided in subdivision (2) of this subsection, the  
2 defendant shall in all cases be taken before the magistrate without unnecessary delay, and,  
3 in any event, within forty-eight hours after his or her arrest, excluding Sundays and  
4 holidays.

5 (2) If the forty-eight hours prescribed by subdivision (1) of this subsection expires  
6 at a time when the court in which the magistrate is sitting is not in session, that time shall  
7 be extended to include the duration of the next court session on the judicial day  
8 immediately following. If the forty-eight-hour period expires at a time when the court in  
9 which the magistrate is sitting is in session, the arraignment may take place at any time  
10 during that session. However, if the defendant's arrest occurs on a Wednesday after the  
11 conclusion of the day's court session, or if the arrest occurs at any time on a Wednesday  
12 and if the Wednesday is a court holiday, the defendant shall be taken before the magistrate  
13 no later than Friday, if the Friday is not a court holiday. If the Friday is a court holiday,  
14 the defendant shall be taken before the magistrate no later than the Thursday immediately  
15 following the Wednesday arrest.

16 2. After the arrest, any attorney entitled to practice in the state of Missouri may,  
17 at the request of the detainee or any relative of the detainee, visit the detainee. Any officer  
18 having charge of the detainee who willfully refuses or neglects to allow that attorney to visit  
19 a detainee is guilty of a misdemeanor.

20 Any officer having a detainee in charge, who refuses to allow the attorney to visit the  
21 detainee when proper application is made, shall forfeit and pay to the party aggrieved the  
22 sum of five hundred dollars, to be recovered by action in any court of competent  
23 jurisdiction.

544.704. 1. The taking of monetary bail consists in the acceptance, by a competent  
2 court or magistrate, of the undertaking of sufficient monetary bail for the appearance of  
3 the defendant, according to the terms of the undertaking, or that the bail will pay to the  
4 people of this state a specified sum. Upon filing, the clerk shall enter the date and amounts  
5 of the bond, the defendant's name, and, if applicable, the name or names of the surety or

6 sureties thereon. In the event of the loss or destruction of such the bond, the entries so  
7 made shall be prima facie evidence of the due execution of the bond as required by law.

8       **2.** If any bail bond has been deposited in any criminal action; proceeding in a  
9 municipal, associate, or circuit court; or in any proceeding in habeas corpus, and it is made  
10 to appear to the satisfaction of the court by affidavit or by testimony in open court that  
11 more than three years have elapsed since the exoneration or release of the bail, the court  
12 shall direct that the bond be destroyed.

**544.708. 1.** The officer in charge of a jail in which an arrested person is held in  
2 custody; an officer of a sheriff's department or police department of a city who is in charge  
3 of a jail or is employed at a fixed police or sheriff's facility and is acting under an  
4 agreement with the agency that keeps the jail in which an arrested person is held in  
5 custody; an employee of a sheriff's department or police department of a city who is  
6 assigned by the department to collect bail; the clerk of the court of the county or a city not  
7 within a county in which the offense was alleged to have been committed; a pretrial  
8 services agent; and the clerk of the court in which the case against the defendant is pending  
9 may approve and accept an order authorizing pretrial release or admitting to bail, issue  
10 and sign an order for the release of the arrested person, and set a time and place for the  
11 appearance of the arrested person before the appropriate court and give notice thereof.

12       **2.** A person who is arrested and booked into jail for a dangerous felony, as defined  
13 in section 556.061, shall not be considered for release until the person appears before a  
14 judge or magistrate for a hearing in accordance with section 544.714 or 544.716. The  
15 pretrial services agency shall not conduct a risk assessment or prepare a pretrial services  
16 report for any person who is arrested and booked into jail for a dangerous felony except  
17 in accordance with subsection 6 of section 544.714.

18       **3.** The pretrial services agency shall, within twenty-four hours of arrest, conduct  
19 a risk assessment on a person arrested and booked into jail and prepare a pretrial services  
20 report with recommendations for conditions of release.

21       **4.** Except as provided in subsections 2 of this section, if a person is arrested and  
22 booked into jail, the pretrial services agency shall, immediately upon booking and, except  
23 if physically impossible, no later than twenty-four hours after booking, conduct a pretrial  
24 risk assessment on the person and prepare a pretrial services report with recommendations  
25 for conditions of release.

26       **5.** Except as otherwise provided in subsections 3 and 6 of this section, a person who  
27 is arrested and booked for a misdemeanor shall be released by the pretrial services agency  
28 subject to signing a release agreement under section 544.730 without further conditions.  
29 A person who is arrested and booked for a misdemeanor and who is currently on pretrial

30 release with or without conditions may be considered for release under subsection 6 of this  
31 section.

32         **6. (1) Except as otherwise provided in subsections 2, 3, and 5 of this section, upon**  
33 **completion of the pretrial risk assessment and preparation of a pretrial services report**  
34 **with recommendations for conditions of release, the pretrial services agency shall**  
35 **immediately transmit the pretrial services report and recommendations on conditions of**  
36 **release to a magistrate, judge, or family court commissioner. The magistrate, judge, or**  
37 **family court commissioner shall, no later than forty-eight hours after receipt of the pretrial**  
38 **services agency's pretrial risk assessment and pretrial services report with**  
39 **recommendations for conditions of release, issue an oral or written order for release**  
40 **subject to a release agreement under section 544.730 without further conditions or subject**  
41 **to a condition or conditions in accordance with section 544.714.**

42         **(2) If the pretrial services report prepared by the pretrial services agency is not**  
43 **available, the magistrate, judge, or family court commissioner shall release the person**  
44 **subject to a release agreement under section 544.730 without further conditions or subject**  
45 **to a condition or conditions in accordance with section 544.714. The fact that the court has**  
46 **not received the report required under this section shall not preclude release under this**  
47 **subdivision.**

48         **7. If an arrested person is released from custody under this section, the court in**  
49 **which the charge is pending may, upon a petition by either party alleging that there has**  
50 **been a change in circumstances, amend the release order to impose different or additional**  
51 **conditions of release at the time of arraignment.**

52         **8. If the judge or magistrate orders the pretrial release of a person under this**  
53 **section, the person shall be released with or without conditions in accordance with section**  
54 **544.730.**

55         **9. An arrested person who is not released under this section shall be considered for**  
56 **release under section 544.714 or 544.716 within the time period prescribed in section**  
57 **544.702.**

**544.710. If a defendant is arrested without a warrant for a bailable felony offense**  
2 **or for the misdemeanor offense of violating an order of protection and a peace officer has**  
3 **reasonable cause to believe that release subject to a release agreement under section**  
4 **544.730 without further conditions is insufficient to ensure the defendant's appearance or**  
5 **to ensure the protection of a victim or family member of a victim, the peace officer shall,**  
6 **no later than twenty-four hours after the arrest, prepare a declaration under penalty of**  
7 **perjury setting forth the facts and circumstances in support of his or her belief and file it**  
8 **with a magistrate, as defined in section 544.010, in the county or a city not within a county**

9 in which the offense is alleged to have been committed or having personal jurisdiction over  
10 the defendant, requesting an order under subsection 6 of section 544.708 imposing a  
11 condition or conditions of release.

544.712. 1. (1) In making a pretrial release or detention decision under section  
2 544.714 or 544.716, a judge or magistrate shall take into consideration the protection of the  
3 public, the seriousness of the offense charged, the previous criminal record of the  
4 defendant, the probability of his or her appearing at trial or at a hearing of the case, and  
5 the presumption of innocence. The public safety, the safety of the victim, and the  
6 probability of the accused appearing in court as required shall be the primary  
7 considerations.

8 (2) In considering the seriousness of the offense charged, a judge or magistrate shall  
9 include consideration of the alleged injury to the victim, alleged threats to the victim or a  
10 witness to the crime charged, and the alleged use of a firearm or other deadly weapon in  
11 the commission of the crime charged.

12 (3) It shall be the duty of the court to determine what condition or conditions will  
13 ensure the safety of the community, secure the defendant's appearance at trial or at a  
14 hearing of the case, and facilitate pretrial release. If, under section 544.716, the court finds  
15 that no conditions will reasonably ensure the defendant's appearance in court or at a  
16 hearing of the court and protect public safety, the court shall issue an order with findings  
17 of fact and a statement explaining what condition or conditions it considered and why  
18 those conditions were inadequate.

19 2. The judge or magistrate shall make a pretrial release or detention decision for  
20 a person without unnecessary delay, and in any event, within the time period prescribed  
21 in section 544.702.

22 3. In making a pretrial release decision under section 544.714, the judge or  
23 magistrate shall consider the pretrial services agency's risk assessment, recommendations  
24 on conditions of release, and the pretrial services report in accordance with section  
25 544.736. If a judge's or magistrate's release decision is not consistent with the pretrial  
26 services program's risk assessment and recommendations on conditions of release, the  
27 judge or magistrate shall include in its order for release a statement of the reasons.

28 4. In making a pretrial detention decision following a detention hearing under  
29 section 544.716, a judge or magistrate may determine whether the person meets the  
30 description of subsection 1 of section 544.716.

544.714. 1. Except as provided in subsection 6 of this section, at the arraignment  
2 of a person who is in custody, the judge or magistrate shall, after considering the pretrial  
3 services report with recommendations for conditions of release and any relevant

4 information provided by the prosecuting attorney or the defendant, order the pretrial  
5 release of the person subject to a release agreement under section 544.730 without further  
6 conditions, unless the judge or magistrate determines that the release will not reasonably  
7 ensure the appearance of the person as required, the safety of the victim, or public safety.  
8 If the judge or magistrate releases the person subject to a release agreement under section  
9 544.730 without further conditions, the reasons for that decision shall be stated in the  
10 record and included in the court's minutes.

11       2. (1) If, after considering the pretrial services report with recommendations for  
12 conditions of release and any relevant information provided by the prosecuting attorney  
13 or the defendant, the judge or magistrate determines that the release described in  
14 subsection 1 of this section will not reasonably ensure the appearance of the person as  
15 required, the safety of the victim, or public safety, the judge or magistrate shall order  
16 pretrial release subject to a release agreement under section 544.730 and to the least  
17 restrictive further nonmonetary condition or conditions that the judge or magistrate  
18 determines will reasonably ensure the appearance of the person as required, the safety of  
19 the victim, and public safety. The judge or magistrate shall include in its release order  
20 findings of fact and a statement of the reasons for the determination that the release  
21 described in subsection 1 of this section is not appropriate and the reasons for imposing  
22 each condition that are specific to the person before the court.

23       (2) The judge or magistrate shall not be required to specify the reasons for ordering  
24 that the defendant be provided either of the following services upon release:

25       (a) A reminder notification to come to court; or

26       (b) Assistance with transportation to and from court.

27       (3) A person for whom any nonmonetary condition or combination of conditions  
28 is imposed shall not be required to pay for those conditions.

29       3. (1) If, after considering the pretrial services report with recommendations for  
30 conditions of release and any relevant information provided by the prosecuting attorney  
31 or the defendant, the judge or magistrate determines that the release described in  
32 subsection 2 of this section will not reasonably ensure the appearance of the person as  
33 required, the judge or magistrate shall set monetary bail as determined under subdivision  
34 (2) of this subsection. The court may also order monetary bail in combination with the  
35 least restrictive nonmonetary condition or combination of nonmonetary conditions that the  
36 judge or magistrate determines will reasonably ensure the appearance of the person as  
37 required, the safety of the victim, and public safety.

38       (2) (a) Monetary bail shall be set at the least restrictive level necessary to ensure  
39 the appearance of the defendant in court, as required. In setting monetary bail, the court

40 shall conduct an inquiry into the person's ability to pay and shall make a finding that the  
41 defendant has the present ability to pay the amount of monetary bail set without  
42 substantial hardship.

43 (b) For the purposes of this subdivision, the following terms shall mean:

44 a. "Ability to pay", the defendant's present ability to pay a specified amount  
45 without borrowing money, obtaining a loan, or paying for a bond;

46 b. "Substantial hardship", a significant infringement on a defendant's ability to  
47 meet the basic necessities of life for himself or herself and his or her dependents. Such  
48 basic necessities include, but are not limited to, food, shelter, communication, clothing,  
49 transportation, medical and dental care, child care, and education.

50 (3) A judge or magistrate shall not set monetary bail in an amount that results in  
51 the pretrial detention of a defendant because of his or her inability to pay.

52 4. If the defendant has not retained counsel, the court shall offer to appoint counsel  
53 to represent him or her at his or her arraignment. If the defendant requests that counsel  
54 be appointed, or if the court finds that the defendant is not competent to represent himself  
55 or herself, the court shall appoint counsel.

56 5. Except as provided in subsection 6 of this section, if the pretrial services report  
57 with recommendations for conditions of release is not available at the time the court makes  
58 a pretrial detention determination under this section, the court shall, consistent with this  
59 section, release the person on the least restrictive condition or conditions that will  
60 reasonably ensure the appearance of the person in court, the safety of the victim, and  
61 public safety, including without further conditions, if appropriate. The fact that the court  
62 has not received the report at the time of release consideration shall not preclude that  
63 release.

64 6. (1) For a defendant charged with a dangerous felony, as defined in section  
65 556.061, the pretrial services agency shall conduct a pretrial risk assessment and prepare  
66 a pretrial services report only if the defendant, either directly or through counsel if the  
67 person is represented by counsel, requests a pretrial risk assessment and report.

68 (2) If the defendant requests a pretrial risk assessment, the assessment and report  
69 shall be completed within twenty-four hours, and within forty-eight hours, the defendant  
70 shall be considered for release under subsections 1, 2, and 3 of this section.

71 7. A defendant for whom conditions of release are imposed and who, five days after  
72 the imposition of the conditions, continues to be detained as a result of an inability to meet  
73 the conditions of release, shall be entitled to an automatic review of the conditions by the  
74 court. The defendant may waive this review.

2           **544.716. 1. A prosecuting attorney may file a motion with the court at any time,**  
3 **including any time before or after a defendant's release under section 544.708, seeking the**  
4 **pretrial detention of the defendant in any of the following circumstances:**

5           **(1) The defendant is charged with an offense punishable by death and the**  
6 **prosecuting attorney alleges that the facts are evident or the presumption great;**

7           **(2) The defendant is charged with a felony offense involving acts of violence on**  
8 **another person or a felony sexual assault offense on another person and the prosecuting**  
9 **attorney alleges all of the following:**

10           **(a) The facts are evident or the presumption great;**

11           **(b) There is no condition or combination of conditions of pretrial release that would**  
12 **reasonably ensure the physical safety of another person or persons; and**

13           **(c) There is a substantial likelihood the defendant's release would result in great**  
14 **bodily harm to others; or**

15           **(3) The defendant is charged with a felony offense and the prosecuting attorney**  
16 **alleges all of the following:**

17           **(a) The facts are evident or the presumption great;**

18           **(b) The defendant has threatened another with great bodily harm;**

19           **(c) There is no condition or combination of conditions of pretrial release that would**  
20 **reasonably ensure the safety of the person who has been threatened; and**

21           **(d) There is a substantial likelihood that the defendant would carry out the threat**  
22 **if released.**

23           **2. (1) If a motion for pretrial detention is filed under subsection 1 of this section,**  
24 **a hearing shall be held before a magistrate or judge to determine whether to release the**  
25 **defendant pending trial unless the hearing is waived by the defendant, either directly or,**  
26 **if he or she is represented by counsel, through counsel. The defense attorney shall be given**  
27 **notice and a reasonable opportunity to be heard on the matter. If the defendant does not**  
28 **have counsel, the court shall appoint counsel. The hearing shall be held within the time**  
29 **period prescribed in section 544.702, unless the hearing is held after arraignment, in which**  
30 **case the hearing shall be held within forty-eight hours, or unless waived by the defendant**  
31 **either directly or, if represented by counsel, through counsel.**

32           **(2) If the defendant waives a hearing under this section and a pretrial risk**  
33 **assessment was conducted and a pretrial services report was prepared, such assessment**  
34 **and report shall not be provided to the parties named in subdivision (2) of subsection 4 of**  
35 **section 544.734, and the defendant shall be ordered detained.**

36           **3. The defendant shall be afforded an opportunity to present witnesses, to**  
**cross-examine witnesses who appear at the hearing, and to present relevant evidence.**

37           **4. In determining whether the facts are evident or the presumption great as**  
38 **specified in subdivision (1), (2), or (3) of subsection 1 of this section, the finding of an**  
39 **indictment or information or a holding order shall not add to the strength of the proof or**  
40 **create a presumption that the facts are evident or the presumption great.**

41           **5. In making the determination whether there is a substantial likelihood that the**  
42 **defendant's release would result in great bodily harm to others, as specified in paragraph**  
43 **(c) of subdivision (2) of subsection 1 of this section, or whether there is a substantial**  
44 **likelihood that the defendant would carry out the threat of great bodily harm if released,**  
45 **as specified in paragraph (d) of subdivision (3) of subsection 1 of this section, the court**  
46 **shall consider all of the following:**

47           **(1) If any condition or combination of conditions of pretrial release would**  
48 **reasonably ensure the physical safety of another person or persons from great bodily**  
49 **harm;**

50           **(2) The nature and seriousness of the physical harm to any person or persons that**  
51 **might be posed by the defendant's release; and**

52           **(3) Any relevant history or facts about the defendant that directly correspond to**  
53 **whether his or her release is likely to result in great bodily harm to others, as specified in**  
54 **paragraph (c) of subdivision (2) of subsection 1 of this section, or to the threatened person,**  
55 **as specified in paragraph (d) of subdivision (2) of subsection 1 of this section.**

56           **6. In addition to the factors under subsection 5 of this section, the court shall**  
57 **consider all of the following:**

58           **(1) The protection of the public;**

59           **(2) The safety of the victim;**

60           **(3) The nature and circumstances of the offense charged;**

61           **(4) The weight of the evidence against the defendant;**

62           **(5) The previous criminal record of the defendant;**

63           **(6) The probability of the defendant appearing at the trial or hearing of the case;**

64 **and**

65           **(7) The presumption of innocence and the presumption of release pending trial.**

66           **7. If after considering any relevant evidence provided by the prosecuting attorney**  
67 **or the defendant and if no condition or combination of conditions would reasonably ensure**  
68 **the safety of another person or persons from great bodily harm, the court shall order the**  
69 **person detained pending trial only if the court finds that the defendant meets one of the**  
70 **following descriptions:**

71           **(1) The defendant has been charged with an offense punishable by death and the**  
72 **facts are evident or the presumption great;**

73           **(2) The defendant has been charged with a felony offense involving an act of**  
74 **violence on another person, or a felony sexual assault offense on another person, the facts**  
75 **are evident or the presumption great, and the court finds based upon clear and convincing**  
76 **evidence that there is a substantial likelihood the person's release would result in great**  
77 **bodily harm to another person or persons; or**

78           **(3) The defendant has been charged with a felony offense, the facts are evident or**  
79 **the presumption great, and the court finds based on clear and convincing evidence that the**  
80 **person has threatened another with great bodily harm in the charged case and that there**  
81 **is a substantial likelihood that the person would carry out the threat if released.**

82           **8. In a detention order issued under subsection 7 of this section, the court shall**  
83 **include findings of fact and a statement of the reasons for the detention, including the**  
84 **specific likelihood of great bodily harm, if applicable, and why no condition or conditions**  
85 **could reasonably mitigate that likelihood.**

86           **9. If the court does not order the pretrial detention of the person at the conclusion**  
87 **of the hearing under this section, pretrial services shall conduct a risk assessment and**  
88 **prepare a pretrial services report with recommendations for conditions of release and the**  
89 **court shall order the release of the person, with or without conditions, under section**  
90 **544.714.**

**544.718. 1. Monetary bail shall not be accepted unless a judge or magistrate finds**  
2 **that no portion of the consideration, pledge, security, deposit, or indemnification paid,**  
3 **given, made, or promised for its execution was feloniously obtained.**

4           **2. A hold on the release of a defendant from custody shall only be ordered by a**  
5 **magistrate or judge if any of the following occurs:**

6           **(1) A peace officer, as defined in section 590.010, files a declaration executed under**  
7 **penalty of perjury setting forth probable cause to believe that the source of any**  
8 **consideration, pledge, security, deposit, or indemnification paid, given, made, or promised**  
9 **for its execution was feloniously obtained;**

10           **(2) A prosecutor files a declaration executed under penalty of perjury setting forth**  
11 **probable cause to believe that the source of any consideration, pledge, security, deposit, or**  
12 **indemnification paid, given, made, or promised for its execution was feloniously obtained.**  
13 **A prosecutor shall have absolute civil immunity for executing a declaration under this**  
14 **subdivision; or**

15           **(3) The magistrate or judge has probable cause to believe that the source of any**  
16 **consideration, pledge, security, deposit, or indemnification paid, given, made, or promised**  
17 **for its execution was feloniously obtained.**

18           **3. Once a magistrate or judge has determined that probable cause exists, as**  
19 **provided in subsection 2 of this section, a defendant bears the burden by a preponderance**  
20 **of the evidence to show that no part of any consideration, pledge, security, deposit, or**  
21 **indemnification paid, given, made, or promised for its execution was obtained by felonious**  
22 **means. Once a defendant has met that burden, the magistrate or judge shall release the**  
23 **hold previously ordered and the defendant shall be released under the authorized amount**  
24 **of bail.**

25           **4. The defendant and his or her attorney shall be provided with a copy of the**  
26 **declaration of probable cause filed under subsection 2 of this section no later than the date**  
27 **set forth under section 544.702.**

28           **5. Nothing in this section shall prohibit a defendant from obtaining a loan of**  
29 **moneys so long as the loan is funded and repaid with funds not feloniously obtained.**

30           **6. At the request of any person providing any portion of the consideration, pledge,**  
31 **security, deposit, or indemnification paid, given, made, or promised for its execution, the**  
32 **magistrate or judge, at an evidentiary hearing to determine the source of the funds, may**  
33 **close it to the general public to protect the person's right to privacy in his or her financial**  
34 **affairs.**

35           **7. If the declaration, having been filed with a magistrate or judge, is not acted on**  
36 **within twenty-four hours, the defendant shall be released from custody upon posting of the**  
37 **amount of bail set.**

38           **8. Nothing in sections 544.700 to 544.736 shall deny the right of the defendant,**  
39 **either personally or through his or her attorney; bail agent or surety recovery agent**  
40 **licensed by the department of insurance, financial institutions and professional**  
41 **registration; friend; or member of his or her family from making an application to the**  
42 **magistrate or judge for the release of the defendant on monetary bail.**

43           **9. The bail of any defendant found to have willfully misled the court regarding the**  
44 **source of bail may be increased as a result of the willful misrepresentation, so long as the**  
45 **amount conforms with subsection 3 of section 544.714. The misrepresentation may be a**  
46 **factor considered in any subsequent bail hearing.**

47           **10. If a defendant has met the burden under subsection 3 of this section, and the**  
48 **defendant shall be released from custody upon the issuance of a bail bond issued under**  
49 **authority of section 544.704 by any surety recovery agent or any bail agent, the magistrate**  
50 **or judge shall vacate the holding order imposed under subsection 2 of this section upon the**  
51 **condition that the consideration for the bail bond is approved by the court.**

**544.720. If the defendant has been held to answer upon an examination for an**  
2 **offense, pretrial release under section 544.714 or admission to bail may be by the**

3 magistrate by whom he or she is so held or by any magistrate who has power to issue the  
4 writ of habeas corpus.

544.722. 1. Upon a finding that monetary bail should be set under subsection 3 of  
2 section 544.714, the defendant may execute an unsecured appearance bond or a secured  
3 bond in the amount specified by the court. The court may require, and the defendant may  
4 request, that an unsecured appearance bond be signed by uncompensated third parties.  
5 For the purposes of this subsection, "unsecured appearance bond" means an order to  
6 release a person upon his or her promise to appear in court and his or her unsecured  
7 promise to pay an amount of moneys, specified by the court, if he or she fails to appear as  
8 promised.

9 2. A secured bond is put in by a written undertaking, executed by two sufficient  
10 sureties, with or without the defendant, in the discretion of the magistrate, and  
11 acknowledged before the court or magistrate, in substantially the following form:

12 "An order having been made on the \_\_\_\_ day of \_\_\_\_, 20 \_\_, by \_\_\_\_, a judge of  
13 the \_\_\_\_ Court of \_\_\_\_ County, that \_\_\_\_ be held to answer upon a charge of (stating  
14 briefly the nature of the offense), upon which he or she has been admitted to bail in the  
15 sum of \_\_\_\_ dollars (\$ \_\_\_\_); we, \_\_\_\_ and \_\_\_\_, of \_\_\_\_ (stating their place of residence  
16 and occupation), hereby undertake that the above-named \_\_\_\_ will appear and answer any  
17 charge in any accusatory pleading based upon the acts supporting the charge above  
18 mentioned, in the court it may be prosecuted, and will at all times hold himself or herself  
19 amenable to the orders and process of the court, and if convicted, will appear for  
20 pronouncement of judgment or grant of probation, or if he or she fails to perform either  
21 of these conditions, that we will pay to the people of the State of Missouri the sum of \_\_\_\_  
22 dollars (\$ \_\_\_\_ ) (inserting the sum in which the defendant is admitted to bail). If the  
23 forfeiture of this bond be ordered by the court, judgment may be summarily made and  
24 entered forthwith against the said \_\_\_\_ (naming the sureties), and the defendant if he or  
25 she be a party to the bond, for the amount of their respective undertakings herein."

26 3. Every undertaking of bail shall contain the bail agent license number of the  
27 owner of the bail agency issuing the undertaking along with the name, address, and phone  
28 number of the agency, regardless of whether the owner is an individual, partnership, or  
29 corporation. The bail agency name on the undertaking shall be a business name approved  
30 by the director of the department of insurance, financial institutions and professional  
31 registration for use by the bail agency owner and be so reflected in the public records of  
32 such director. The license number of the bail agent appearing on the undertaking shall be  
33 in the same type size as the name, address, and phone number of the agency.

2           **544.724. If the offense charged is not punishable by death, the officer serving the**  
3 **bench warrant shall, if required, take the defendant before a magistrate in the county or**  
4 **city not within a county in which it is issued, or in which he or she is arrested, for the**  
5 **purpose of a pretrial release hearing. If the defendant appears before the magistrate**  
6 **without the bench warrant having been served upon him or her, the magistrate shall**  
7 **deliver him or her into the custody of the sheriff for the purpose of immediate booking and**  
8 **the recording of identification data, whereupon the sheriff shall deliver the defendant back**  
9 **before the magistrate for the purpose of a pretrial release hearing.**

2           **544.726. 1. After a defendant has been released from custody upon an indictment**  
3 **or information under section 544.714, the court in which the charge is pending may, upon**  
4 **a change in circumstances, amend the release order to change the conditions of release,**  
5 **including the amount of any monetary bail. If, upon motion of the prosecuting attorney,**  
6 **the amount of monetary bail is increased, the court shall set bail in accordance with**  
7 **subsection 3 of section 544.714. If the defendant requests a change in the conditions of**  
8 **release, notice of the request shall be served upon the prosecuting attorney.**

9           **2. A defendant who has violated the terms or conditions of release ordered by the**  
10 **court may be held in contempt of court upon motion of the prosecuting attorney. An order**  
11 **of contempt shall not be issued unless, after a hearing, the court finds both of the following:**

12           **(1) That there is either of the following:**

13           **(a) Probable cause to believe that the defendant has committed a federal, state, or**  
14 **local crime while on pretrial release; or**

15           **(b) Evidence that the defendant has violated any condition of release; and**

16           **(2) That either of the following:**

17           **(a) There is no condition or combination of conditions of release that would**  
18 **reasonably ensure that the defendant will not flee or pose a danger to any other person or**  
19 **the community; or**

20           **(b) The defendant is unlikely to abide by any condition or combination of**  
21 **conditions of release.**

22           **3. If the defendant has not retained counsel, the court shall offer to appoint counsel**  
23 **for purposes of this section. If the defendant requests that counsel be appointed, or if the**  
24 **court finds that the defendant is not competent to represent himself or herself, the court**  
25 **shall appoint counsel.**

2           **544.728. 1. The defendant, at any time after an order admitting defendant to bail**  
3 **under section 544.714, instead of giving bail may deposit, with the clerk of the court in**  
4 **which the defendant is held to answer or notified to appear for arraignment, the sum**  
5 **mentioned in the order or a percentage of the sum mentioned in the order, not to exceed**  
6 **the sum mentioned in the order.**

5 ten percent, and, upon delivering to the officer in whose custody defendant is a certificate  
6 of the deposit, the defendant shall be discharged from custody.

7 2. If more than one deposit is made with respect to any charge in any accusatory  
8 pleading based upon the acts supporting the original charge as a result of which an earlier  
9 deposit was made, the defendant shall receive credit in the amount of any earlier deposit.

544.730. The defendant shall not be released from custody under his or her own  
2 recognizance with no further conditions, or released with a further condition or conditions,  
3 until the defendant files with the clerk of the court or other person authorized to accept  
4 bail a signed release agreement that includes the following:

5 (1) The defendant's promise to appear at all times and places, as ordered by the  
6 court or magistrate and as ordered by any court in which, or any magistrate before whom,  
7 the charge is subsequently pending;

8 (2) The defendant's promise to obey all reasonable conditions imposed by the court  
9 or magistrate;

10 (3) The defendant's promise not to depart this state without leave of the court;

11 (4) Agreement by the defendant to waive extradition if the defendant fails to appear  
12 as required and is apprehended outside of the state of Missouri; and

13 (5) The acknowledgment of the defendant that he or she has been informed of the  
14 consequences and penalties applicable to violation of the conditions of release.

544.732. 1. Each county or city not within a county shall establish a pretrial  
2 services agency. Such agency shall be responsible for gathering information about newly  
3 arrested defendants, conducting risk assessments on pretrial defendants, preparing  
4 individually tailored recommendations to the court regarding release options and  
5 conditions, and providing pretrial services and supervision to defendants on pretrial  
6 release. Pretrial services agencies shall do all of the following:

7 (1) Use methods that research has proven to be effective in reducing unnecessary  
8 detention while assuring court appearance and the safety of the community during the  
9 pretrial stage;

10 (2) Assist defendants on pretrial release in remaining free from custody and to  
11 employ the least restrictive interventions and practices;

12 (3) Ensure that services provided are culturally and linguistically competent; and

13 (4) Ensure that all policies and practices are developed and applied to reduce or  
14 eliminate bias based on race, ethnicity, national origin, immigration status, gender,  
15 religion, and sexual orientation.

16           **2. The pretrial services agency shall follow any established standards and**  
17 **guidelines, as well as current best practices and standards for pretrial services agencies and**  
18 **professionals.**

19           **3. Pretrial services agencies shall make every effort to assist pretrial defendants**  
20 **with complying with their conditions of release and to address noncompliance with pretrial**  
21 **services requirements administratively.**

22           **4. Pretrial services agencies shall, at a minimum, notify released defendants of their**  
23 **court dates.**

24           **5. In carrying out their duties, pretrial services agencies may do any of the**  
25 **following:**

26           **(1) Through appropriate referral, and at the request of a defendant, assist a**  
27 **defendant released pretrial to access medical, legal, and social services that would increase**  
28 **the chances of successful compliance with conditions of pretrial release; or**

29           **(2) Coordinate the services of community release projects, other agencies, nonprofit**  
30 **organizations, or individuals that serve as third-party custodians for released defendants.**

31           **6. If ordered by the court, a pretrial service agency shall monitor the compliance**  
32 **of released defendants with ordered release conditions through appropriate supervision.**  
33 **In supervising pretrial defendants, pretrial services agencies shall utilize the least**  
34 **restrictive interventions and practices to promote compliance with court-ordered**  
35 **conditions.**

**544.734. 1. The pretrial risk assessment tool shall meet all of the following**  
2 **specifications:**

3           **(1) It shall be objective, standardized, and developed based on analysis of empirical**  
4 **data and risk factors relevant to the risk of failure to appear in court when required and**  
5 **the risk to public safety;**

6           **(2) It shall be consistent with and guided by current research and evidence-based**  
7 **best practices;**

8           **(3) It shall be regularly validated according to current best practices and standards**  
9 **to ensure that it accurately predicts risk of failure to appear in court and risk to public**  
10 **safety;**

11           **(4) It shall be regularly validated and adjusted, as appropriate, to ensure that the**  
12 **assessment instrument is equally accurate across all racial groups, ethnic groups, and**  
13 **genders. The validation study shall include testing for predictive bias and disparate results**  
14 **by race, ethnicity, and gender. The tool shall be adjusted to ensure accuracy and to**  
15 **minimize disparate results;**

16 (5) It shall not include race, ethnicity, national origin, immigration status, gender,  
17 religion, sexual orientation, education level, employment status, socioeconomic status,  
18 arrests that did not lead to conviction, or housing status as factors used in assessing risk  
19 or determining a risk score or level;

20 (6) It shall not give undue weight to factors such as criminal history and other  
21 factors that correlate with race and class;

22 (7) It shall not require an in-person interview of an arrested person; and

23 (8) It shall distinguish between failure to appear and willful failure to appear.

24 2. If, prior to August 28, 2019, a county or city not within a county is using a  
25 pretrial risk assessment tool, the county or city not within a county may elect to continue  
26 using that pretrial risk assessment tool, provided the tool meets the requirements of  
27 subsection 1 of this section.

28 3. Under sections 544.708 and 544.714, the pretrial services agency shall conduct  
29 a pretrial risk assessment using the selected pretrial risk assessment tool.

30 4. (1) The pretrial services agency shall prepare a pretrial services report following  
31 the administration of the pretrial risk assessment tool that contains the results of the  
32 pretrial risk assessment tool, the offense charged, and a recommendation for release under  
33 section 544.730 without further conditions or release subject to the least restrictive further  
34 condition or conditions that will reasonably ensure the arrested person's appearance in  
35 court as required and public safety.

36 (2) The pretrial services agency shall provide copies of its report to the court, the  
37 prosecuting attorney, and to counsel for the arrested person or, if the person is not  
38 represented, to the defendant.

39 (3) The report shall not be used for any purpose other than that provided for in this  
40 section and sections 544.708 and 544.714.

41 5. Judges, magistrates, and commissioners who make pretrial release decisions shall  
42 be trained in the proper use of the information contained in a pretrial services report,  
43 including the results of the risk assessment.

44 6. Pretrial services staff who administer pretrial risk assessment tools shall be  
45 trained in conducting the pretrial risk assessment tool and interpreting the results.

46 7. Annually, each county or city not within a county shall report pretrial release  
47 and detention information. At a minimum, the counties shall submit the following data,  
48 disaggregated by race or ethnicity and gender, annually:

49 (1) The percentage of individuals released pretrial;

50 (2) The percentage of individuals released pretrial who fail to appear as required;

51           **(3) The percentage of individuals released pretrial who commit new crimes while**  
52 **on pretrial release and the percentage of those released who commit new violent crimes**  
53 **while on pretrial release; and**

54           **(4) The rate of judicial concurrence with recommended conditions of release.**

55           **8. Such information reported by a county or city not within a county under**  
56 **subsection 7 of this section shall be used to monitor the effectiveness of the county's or city**  
57 **not within in a county's pretrial release policies, standards, and procedures and to ensure**  
58 **compliance with the requirements of state law. In monitoring effectiveness, the data**  
59 **specified in subsection 7 of this section shall be compared with available data on pretrial**  
60 **release prior to August 28, 2019.**

61           **9. Each county or city not within a county shall make publicly available its risk**  
62 **assessment tool guidelines, factors, weights, studies, data upon which validation studies**  
63 **rely, and information about how a risk assessment tool was renormed.**

**544.736. If any provision of sections 544.700 to 544.736 conflict with any other law,**  
2 **rule, or regulation, the provisions of sections 544.700 to 544.736 shall prevail.**

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