

SECOND REGULAR SESSION

HOUSE BILL NO. 1937

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HILL.

4739H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend supreme court rules 21.03, 21.04, 21.05, 21.06, 21.09, 21.10, 22.03, 22.04, 22.05, 22.07, 22.08, 22.09, 33.01, 33.02, 33.04, 33.05, 33.06, 33.07, 33.08, 33.09, 33.10, and 33.11, relating to criminal procedure.

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

Section A. Supreme court rules 21.03, 21.04, 21.05, 21.06, 21.09, 21.10, 22.03, 22.04, 22.05, 22.07, 22.08, 22.09, 33.01, 33.02, 33.04, 33.05, 33.06, 33.07, 33.08, 33.09, 33.10, and 33.11, are amended, to read as follows:

21.03. Misdemeanors - Summons or Warrant of Arrest - When Issued

(a) When an information is filed pursuant to Rule 21.02, a summons shall be issued unless the court finds that sufficient facts have been stated to show probable cause that a misdemeanor has been committed and **that** there are reasonable grounds to believe **that**:

(1) The defendant will not appear upon the summons; or

(2) The defendant poses a danger to a crime victim, the community, or any other person.

If the court so finds, a warrant ~~[of]~~ **for the** arrest ~~[for]~~ **of** the defendant may be issued.

(b) When an indictment charging the commission of a misdemeanor is returned, either a summons or warrant ~~[of]~~ **for** arrest may be issued.

~~[(c) When an information or indictment charges a corporation with the commission of a misdemeanor, a summons shall be issued.]~~

~~[(d) If a warrant is issued under this Rule, the court shall take into account, on the basis of available information, which may include a written recommendation from the State, the factors set forth in Rule 33.01(c) when setting the condition or combination of conditions of release, if any, required by Rule 33.01(b) and allowed by Rule 33.01(c).]~~

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.

21.04. Misdemeanors - Statement of Probable Cause - Contents

A statement of probable cause must be in writing and shall:

(a) State the name of the ~~[defendant]~~ **accused** or, if not known, designate the ~~[defendant]~~ **accused** by any name or description by which the ~~[defendant]~~ **accused** can be identified with reasonable certainty;

(b) State the date and place of the ~~[offense]~~ **crime** as definitely as can be done;

(c) State the facts that support a finding of probable cause to believe ~~[an offense]~~ **a crime** was committed and that the ~~[defendant]~~ **accused** committed it;

~~(d) [If a warrant will be requested, state the facts, if any, that support a finding of reasonable grounds to believe the defendant will not appear upon a summons or the defendant poses a danger to a crime victim, the community, or any other person;~~

~~——(e)]~~ State that the facts contained therein are true; and

~~[(f)]~~ **(e)** Be signed and on a form bearing notice that false statements made therein are punishable by law.

21.05. Misdemeanor - Summons - Contents

The summons shall:

(a) Be in writing and in the name of the State of Missouri;

(b) State the name of the defendant summoned;

(c) Describe the misdemeanor charged;

(d) Be signed by ~~[the court]~~ **a judge**, or **by a clerk** ~~[at the court's direction for a specific summons]~~ **of the court when directed by the judge**; and

(e) Command the ~~[defendant]~~ **person** to appear before the court at a stated time and place in response thereto.

21.06. Misdemeanors - Warrant ~~[for]~~ **of** Arrest - Contents

(a) The warrant ~~[for]~~ **of** arrest must be in writing and issued in the name of the State of Missouri. It may be directed to any peace officer in the state.

(b) The warrant shall:

(1) Contain the name of the ~~[defendant]~~ **person** to be arrested or, if not known, any name or description by which the defendant can be identified with reasonable certainty;

(2) Describe the offense charged in the information or indictment;

(3) State the date when issued and the county where issued;

(4) Command that the defendant named or described therein be arrested and brought forthwith~~[, in person, or by interactive video technology,]~~ before the court designated in the warrant;

12 (5) Specify the ~~[condition or combination of]~~ conditions of release~~], if any, required by~~
 13 ~~Rule 33.01(b) and allowed by Rule 33.01(c), or the determination made under Rule 33.01(d);~~
 14 and

15 (6) Be signed by ~~[the court,]~~ **a judge** or by a clerk ~~[at the court's direction for a specific~~
 16 ~~warrant] of the court when directed by the judge.~~

21.09. Misdemeanors - ~~[Initial]~~ Appearance Under Warrant Before ~~[the Court]~~ **Judge**

2 A ~~[defendant]~~ **person** arrested ~~[and confined]~~ under ~~[the initial]~~ a warrant for any
 3 misdemeanor ~~[offense issued pursuant to Rule 21.03 or Rule 21.08]~~ shall be brought **as soon as**
 4 **practicable** ~~[forthwith for an appearance, as set forth in Rule 21.10, in person or by interactive~~
 5 ~~video technology,]~~ before a judge of the court from which the warrant was issued. ~~[This initial~~
 6 ~~appearance shall be held no later than 48 hours, excluding weekends and holidays, after the~~
 7 ~~defendant is confined under the warrant in the county that issued the warrant or in a county with~~
 8 ~~which the county issuing the warrant has a contractual agreement to hold the defendant.]~~

9 The warrant, with proper return thereon, shall be filed with the court ~~[forthwith].~~

21.10. Misdemeanors - Initial ~~[Appearance]~~ **Proceedings** Before ~~[the Court]~~ **Judge**

2 Upon the defendant's initial appearance[:

3 ~~———(a) The court] the judge~~ shall inform the defendant of the misdemeanor charged, the
 4 right to retain counsel, the right to request the appointment of counsel if the defendant is unable
 5 to retain counsel, and the right to remain silent. The ~~[court]~~ **judge** shall also inform the
 6 defendant that any statement made by the defendant may be used against the defendant.

7 ~~[(b) If the defendant is appearing after release from custody on a warrant, the court shall~~
 8 ~~inform the defendant of the conditions of release and that a warrant may be issued immediately~~
 9 ~~upon any violation of a condition of release. The court shall also advise the defendant of the~~
 10 ~~right to apply for a modification of any conditions of release at a hearing pursuant to Rule 33.06.~~

11 ~~———(c) If the defendant is in custody after arrest on a warrant, the court shall inform the~~
 12 ~~defendant of the conditions of release, if any, and determine whether the defendant can meet the~~
 13 ~~conditions. If a defendant is unable to meet the conditions, then, subject to the right of a victim~~
 14 ~~to be informed of and heard at a bail hearing, the court may modify the conditions of release, if~~
 15 ~~the court determines the circumstances of the defendant and the case require modification of the~~
 16 ~~conditions. The court shall inform the defendant that a warrant for arrest may be issued~~
 17 ~~immediately upon any violation of a condition of release. If the defendant is not released from~~
 18 ~~custody following the initial appearance, the court shall advise the defendant of the right to a~~
 19 ~~release hearing pursuant to Rule 33.05.~~

20 ~~———(d) If the defendant has appeared on a summons and the offense is required to be given~~
 21 ~~an offense cycle number, the court shall ensure the defendant has been fingerprinted and~~

22 ~~processed by the appropriate law enforcement agency for the purposes of creating an offense~~
 23 ~~cycle number.]~~

22.03. Felonies - Statement of Probable Cause - Contents

2 A statement of probable cause must be in writing and shall:

3 (a) State the name of the ~~[defendant]~~ **accused** or, if not known, designate the ~~[defendant]~~
 4 **accused** by any name or description by which the ~~[defendant]~~ **accused** can be identified with
 5 reasonable certainty;

6 (b) State the date and place of the ~~[offense]~~ **crime** as definitely as can be done;

7 (c) State the facts that support a finding of probable cause to believe ~~[an offense]~~ **a crime**
 8 was committed and that the ~~[defendant]~~ **accused** committed it;

9 ~~(d) [If a warrant will be requested, state the facts, if any, that support a finding of~~
 10 ~~reasonable grounds to believe the defendant will not appear upon a summons or the defendant~~
 11 ~~poses a danger to a crime victim, the community, or any other person;~~

12 ~~——(e)] State [that] the facts contained therein are true; and~~

13 ~~[(f)] (e) Be signed and on a form bearing notice that false statements made therein are~~
 14 ~~punishable by law.~~

22.04. Felonies - ~~[Summons or]~~ Warrant of Arrest - When Issued

2 (a) ~~[When a complaint is filed pursuant to Rule 22.02 and]~~ **Unless the court orders the**
 3 **issuance of a summons, a warrant for the arrest of the defendant shall be issued:**

4 **(1) Upon the filing of a complaint and finding by the court that** sufficient facts have
 5 been stated **therein** to show probable cause that a felony has been committed ~~[, a summons shall~~
 6 ~~be issued unless the court finds there are reasonable grounds to believe:~~

7 ~~——(1) The defendant will not appear upon the summons; or~~

8 ~~——(2) The defendant poses a danger to a crime victim, the community, or any other person.~~

9 ~~——If the court so finds, a warrant of arrest for the defendant may be issued.~~

10 ~~——(b) When] by the defendant, or~~

11 **(2) Upon the return of an indictment charging the commission of a felony [is returned;**
 12 **either a summons or warrant of arrest may be issued].**

13 ~~[(e)] (b) When a complaint or an indictment charges a corporation with the commission~~
 14 ~~of a felony, a summons shall be issued.~~

15 ~~[(d) If a warrant is issued under this Rule, the court shall take into account, on the basis~~
 16 ~~of available information, which may include a written recommendation from the State, the~~
 17 ~~factors set forth in Rule 33.01(e) when setting the condition or combination of conditions of~~
 18 ~~release, if any, required by Rule 33.01(b) and allowed by Rule 33.01(e).]~~

22.05. Felonies - Warrant ~~[for]~~ of Arrest – Contents

2 (a) The warrant ~~[for]~~ **of** arrest must be in writing and issued in the name of the State of
3 Missouri. It may be directed to any peace officer in the state.

4 (b) The warrant shall:

5 (1) Contain the name of the ~~[defendant]~~ **person** to be arrested or, if not known, any name
6 or description by which the ~~[defendant]~~ **accused** can be identified with reasonable certainty;

7 (2) Describe the felony charged in the complaint or indictment;

8 (3) State the date when issued and the county where issued;

9 (4) Command that the defendant named or described therein be arrested and brought
10 forthwith~~[, in person or by interactive video technology,]~~ before the court designated in the
11 warrant;

12 (5) Specify the ~~[condition or combination of]~~ conditions of release~~[, if any, required by~~
13 ~~Rule 33.01(b) and allowed by Rule 33.01(c), or the determination made under Rule 33.01(d)];~~
14 and

15 (6) Be signed by ~~[the court]~~ **a judge**, or by a clerk ~~[at the court's direction]~~ **of the court**
16 **when directed by the judge** for a specific warrant.

22.07. Felonies - ~~[Initial]~~ Appearance Under Warrant Before ~~[the Court]~~ **Judge**

2 A ~~[defendant]~~ **person** arrested ~~[and confined]~~ under ~~[the initial]~~ a warrant for any felony
3 ~~[offense issued pursuant to Rule 22.04 or Rule 22.06]~~ shall be brought ~~[forthwith for an~~
4 ~~appearance, as set forth in Rule 22.08, in person or by interactive video technology,]~~ **as soon as**
5 **practicable** before a judge of the court from which the warrant was issued. ~~[This initial~~
6 ~~appearance shall be held no later than 48 hours, excluding weekends and holidays, after the~~
7 ~~defendant is confined under the warrant in the county that issued the warrant or in a county with~~
8 ~~which the county issuing the warrant has a contractual agreement to hold the defendant.]~~

9 The warrant, with proper return thereon, shall be filed with the court ~~[forthwith]~~.

22.08. Felonies - Initial ~~[Appearance]~~ **Proceedings** Before ~~[the Court]~~ **Judge**

2 Upon the defendant's initial appearance[:

3 ~~——~~ ~~(a) The court]~~ , **the judge** shall inform the defendant of the felony charged, the right to
4 retain counsel, the right to request the appointment of counsel if the defendant is unable to retain
5 counsel, and the right to remain silent. The ~~[court]~~ **judge** shall also inform the defendant that
6 any statement made by the defendant may be used against the defendant.

7 ~~(b) If the defendant is appearing after release from custody on a warrant, the court shall~~
8 ~~inform the defendant of the conditions of release and that a warrant may be issued immediately~~
9 ~~upon any violation of a condition of release. The court shall also advise the defendant of the~~
10 ~~right to apply for a modification of any conditions of release at a hearing pursuant to Rule 33.06:~~

11 ~~——~~ ~~(c) If the defendant is in custody after arrest on a warrant, the court shall inform the~~
12 ~~defendant of the conditions of release, if any, and determine whether the defendant can meet the~~

13 ~~conditions. If a defendant is unable to meet the conditions, then, subject to the right of a victim~~
 14 ~~to be informed of and heard at a bail hearing, the court may modify the conditions of release, if~~
 15 ~~the court determines the circumstances of the defendant and the case require modification of the~~
 16 ~~conditions. The court shall inform the defendant that a warrant for arrest may be issued~~
 17 ~~immediately upon any violation of a condition of release. If the defendant is not released from~~
 18 ~~custody following the initial appearance, the court shall advise the defendant of the right to a~~
 19 ~~release hearing pursuant to Rule 33.05.~~

20 ~~—— (d) If the defendant has appeared on a summons and the offense is required to be given~~
 21 ~~an offense cycle number, the court shall ensure the defendant has been fingerprinted and~~
 22 ~~processed by the appropriate law enforcement agency for the purposes of creating an offense~~
 23 ~~cycle number.]~~

22.09. Felonies - Preliminary Hearing

2 (a) Preliminary Hearing. After the filing of a felony complaint, a preliminary hearing
 3 shall be held within a reasonable time. At the preliminary hearing the defendant shall not be
 4 called upon to plead.

5 If the defendant waives preliminary hearing, the [court] judge shall order the defendant
 6 to appear to answer to the charge.

7 (b) Conduct of Hearing and Finding by [the Court] Judge. If the defendant does not
 8 waive preliminary hearing, the hearing shall be held. The defendant may cross-examine
 9 witnesses and may introduce evidence.

10 If the [court] judge finds probable cause to believe **that** a felony has been committed and
 11 **that** the defendant has committed it, the [court] judge shall order the defendant to appear and
 12 answer to the charge; otherwise, the [court] judge shall discharge the defendant.

13 (c) Defendant to Appear in Court to Answer the Charge. If the defendant is held to
 14 answer to the charge, the [court] judge shall order the defendant to appear in the appropriate
 15 division on a day certain as soon as practicable, but not more than 40 days after completion of
 16 the preliminary hearing.

17 Within five days after concluding the proceedings, the [court] judge shall cause all papers
 18 in the proceeding and any bail posted by the defendant to be transmitted to that division.

33.01. Misdemeanors or Felonies - Right to Release - Conditions

2 (a) ~~[A defendant]~~ **Any person** charged with a bailable offense shall be entitled to be
 3 released ~~[from custody] pending trial [or other stage of the criminal proceedings]~~. **Any person**
 4 **convicted of an offense entitled to be released upon appeal shall be released upon appeal**
 5 **until adoption by the court of an opinion affirming the judgment of conviction. The**
 6 **affirming court may, by special order, permit the defendant to remain on bond after**
 7 **affirmance pending determination of after-affirmance motions or applications.**

8 (b) ~~[The defendant's release shall be upon the conditions that:~~

9 ~~—— (1) The defendant]~~ **The court shall set such conditions for release as will reasonably**
10 **assure the appearance of the accused.**

11 (c) **The release shall be upon condition that the accused** will appear in the court, **or**
12 **in any other court, trial or appellate,** in which the case ~~[is]~~ **may be** prosecuted or appealed,
13 from time to time as required to answer the criminal charge[;]

14 ~~—— (2) The defendant]~~ ; **that he** will submit to the orders, judgment and sentence[;] and
15 process of ~~[the]~~ **any** court having jurisdiction ~~[over the defendant;~~

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

18 ~~—— (4) The defendant]~~ **thereof; and that** will comply fully with any ~~[and all]~~ conditions
19 imposed by the court in granting release.

20 ~~[(e)]~~ (d) The court shall **in all cases** release the ~~[defendant on the defendant's own~~
21 ~~recognizance subject only to the conditions under subsection (b) with no additional conditions~~
22 ~~of release]~~ **accused upon his written promise to appear,** unless the court determines **that** such
23 release will not ~~[secure]~~ **reasonably assure** the appearance of the ~~[defendant at trial, or at any~~
24 ~~other stage of the criminal proceedings, or the safety of the community or other person, including~~
25 ~~but not limited to the crime victims and witnesses]~~ **accused.** If the court so determines[;] it shall
26 ~~[set and impose additional conditions of release pursuant to this subsection.~~

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

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

42 ~~———— If the court determines additional conditions of release are required pursuant to this~~
43 ~~subsection, it shall set and] impose one or more of the following conditions [ef release] for his~~
44 **release which will reasonably assure such appearance:**

45 (1) Place the ~~[defendant]~~ **person** in the custody of a designated person or organization
46 agreeing to supervise ~~[the defendant]~~ **him**;

47 (2) Place ~~[restrictions]~~ **restriction** on the travel, association, or place of abode of the
48 ~~[defendant]~~ **person** during the period of release~~[, including the holding by the court of the~~
49 ~~defendant's passport];~~

50 (3) **Require the execution of a bond in a stated amount with sufficient solvent**
51 **sureties, or the deposit in the registry of court of the sum in cash or negotiable bonds of the**
52 **United States or of the State of Missouri or any political subdivision thereof;**

53 (4) Require the ~~[defendant]~~ **person** to report regularly to some officer of the court or
54 peace officer, in such manner as the court directs;

55 ~~[(4) Require the use of electronic monitoring of defendant's location, the testing of~~
56 ~~defendant for drug or alcohol use, or the installation and use of ignition interlock devices. The~~
57 ~~court may order the eligible defendant to pay all or a portion of the costs of such conditions, but~~
58 ~~the court shall consider how best to minimize the costs to the defendant and waive the costs for~~
59 ~~an eligible defendant who is indigent and who has demonstrated to the court an inability to pay~~
60 ~~all or a portion of the costs;~~

61 ~~———— (5) Require the defendant to seek employment, to maintain employment, or to maintain~~
62 ~~or commence an educational program;~~

63 ~~———— (6) Require the defendant to comply with a specified curfew;~~

64 ~~———— (7) Require the defendant to refrain from possessing a firearm or other deadly weapon;~~

65 ~~———— (8) Require the defendant to abstain from possession or use of alcohol or any controlled~~
66 ~~substance without a physician's prescription;~~

67 ~~———— (9) Require the defendant to undergo available medical, psychological or psychiatric~~
68 ~~treatment, including treatment for drug or alcohol dependency and remain in a specified~~
69 ~~institution if required for that purpose;~~

70 ~~———— (10) Require the defendant to return to custody for specified hours following release for~~
71 ~~employment, school, treatment, or other limited purpose;~~

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

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

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

84 ~~———— (14)] (5) Require the execution of a [monetary] bond in a stated amount and the deposit~~
85 ~~in the registry of the court of [10] ten percent, or such lesser sum as the court directs, of such~~
86 ~~sum in cash or negotiable bonds of the United States or the State of Missouri or any political~~
87 ~~subdivision thereof;~~

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

90 ~~———— (16)] (6) Impose any other conditions deemed reasonably necessary to [secure the]~~
91 ~~assure appearance [of the defendant at trial, or at any other stage of the criminal proceedings,~~
92 ~~or the safety of the community or other person] as required, including [but not limited to the~~
93 ~~crime victims and witnesses] a condition requiring that the person return to custody after~~
94 ~~specified hours.~~

95 ~~[(d) Should the court determine upon clear and convincing evidence that no combination~~
96 ~~of non-monetary conditions and monetary conditions will secure the safety of the community or~~
97 ~~other person, including but not limited to the crime victims and witnesses, then the court shall~~
98 ~~order the defendant detained pending trial or any other stage of the criminal proceedings. A~~
99 ~~defendant so detained shall, upon written request filed after arraignment, be entitled to a trial~~
100 ~~which begins within 120 days of the defendant's request or within 120 days of an order granting~~
101 ~~a change of venue, whichever occurs later. Any request by the defendant to continue the trial~~
102 ~~beyond the 120 days shall be considered a waiver by the defendant of the right to have the trial~~
103 ~~conducted within 120 days.]~~

104 ~~(e) In determining [whether to detain the defendant pursuant to subsection (d) or release~~
105 ~~the defendant with a condition or combination of] which conditions of release will reasonably~~
106 ~~assure appearance, [if any, pursuant to subsection (c),] the court shall [base its determination~~
107 ~~on the individual circumstances of the defendant and the case. Based] , on the basis of available~~
108 ~~information, [the court shall] take into account: the nature and circumstances of the offense~~
109 ~~charged[;] the weight of the evidence against the [defendant;] accused, the [defendant's]~~
110 ~~accused's family ties, employment, financial resources, [including ability to pay,] character,~~
111 ~~[and] mental condition[;] , the length of [the defendant's] his residence in the community [; the~~
112 ~~defendant's] , his record of convictions [; the defendant's] , and his record of appearance at court~~
113 ~~proceedings or flight to avoid prosecution or failure to appear at court proceedings[; whether the~~

114 ~~defendant was on probation, parole or release pending trial or appeal at the time the offense for~~
 115 ~~which the court is considering detention or release was committed; and any validated~~
 116 ~~evidentiary-based risk assessment tool approved by the Supreme Court of Missouri].~~

117 (f) A court ~~[detaining or]~~ releasing ~~[the defendant]~~ **a person** under this Rule shall enter
 118 an order stating the ~~[condition or combination of]~~ conditions ~~[of release, if any, set and]~~ imposed
 119 ~~[by the court. If the defendant is detained and unable to comply with any condition of release,~~
 120 ~~the defendant shall have the right to a release hearing pursuant to Rule 33.05. At any hearing~~
 121 ~~conducted under Rule 33, the court shall permit but not require either party to make a record on~~
 122 ~~the defendant's financial status and ability to pay any monetary condition or other relevant issue.~~
 123 ~~At such hearing, the court shall also make written or oral findings on the record supporting the~~
 124 ~~reasons for detention or conditions set and imposed].~~ The court shall inform ~~[the defendant]~~
 125 **such person** of the conditions ~~[set and]~~ imposed ~~[- if any, and that the conditions of release may~~
 126 ~~be revoked and the defendant detained until trial or other stage of the criminal proceedings for~~
 127 ~~violation of any] and of the penalties applicable to violations of the conditions of his release~~
 128 and **shall advise him** that a warrant for ~~[the defendant's]~~ **his** arrest ~~[may]~~ **will** be issued
 129 immediately upon ~~[notification to the court of]~~ any such violation.

33.02. Misdemeanors or Felonies - Warrant for Arrest - **Officials Authorized to Set**
 2 **Conditions of Release - Conditions to be Stated on Warrant**

3 The court~~[s]~~ or clerk ~~[at the court's direction for a specific warrant,]~~ **thereof** issuing a
 4 warrant for the arrest of any ~~[defendant]~~ **person** shall ~~[state]~~ **set** the condition ~~[or combination~~
 5 ~~of conditions of]~~ **for** release ~~[- if any, on the warrant for arrest]~~ **of the accused which shall be**
 6 **one of the following:**

7 (a) **The written promise of the accused to appear; or**

8 (b) **The execution of a bond in a stated amount pursuant to Rule 33.01(d)(3); or**

9 (c) **The execution of a bond in a stated amount pursuant to Rule 33.01(d)(5).**

10 **The condition of release shall be stated on the warrant of arrest. If the condition**
 11 **of release is not stated on the warrant the sheriff may set the condition of release specified**
 12 **in Rule 33.01(d)(3).**

33.04. Misdemeanors or Felonies - Officer Authorized to Accept Conditions of Release

2 The court **or clerk who the** ~~[that]~~ set conditions of release, ~~[the clerk thereof,]~~ or the
 3 sheriff, may accept the conditions of release and release the ~~[defendant]~~ **accused.**

33.05. Misdemeanors or Felonies - ~~[Release Hearing]~~ **Right to Review of Conditions**

2 ~~[A defendant who continues to be detained after the initial appearance under Rule 21.10~~
 3 ~~or Rule 22.08 shall have the defendant's detention or conditions of release reviewed at a hearing~~
 4 ~~by the court subject to the right of a victim to be informed of and heard at the hearing. The~~
 5 ~~hearing shall occur as soon as practicable but no later than seven days, excluding weekends and~~

~~6 holidays, after the initial appearance, absent good cause shown by the parties or the court. At
7 the hearing, the court shall determine if the defendant shall be detained or released as provided
8 in Rule 33.01. Nothing herein shall prohibit a defendant from making subsequent application
9 for review of the defendant's detention or conditions of release under Rule 33.01.]~~

10 **A person for whom conditions of release are imposed and who after twenty-four**
11 **hours from the time of the release hearing continues to be detained as a result of his**
12 **inability to meet the conditions of release shall, upon application, be entitled to have the**
13 **conditions reviewed by the court which imposed them. The application shall be**
14 **determined promptly.**

33.06. Misdemeanors or Felonies - Modification of Conditions of Release

2 (a) Upon motion by the state or by the ~~[defendant]~~ **accused**, or upon the court's own
3 motion, the court~~[, subject to the right of a victim to be informed of and be heard, and]~~ **in which**
4 **the proceeding is pending may**, after notice to the parties and hearing, ~~[may]~~ modify the
5 ~~[conditions of]~~ **requirements for** release when the court finds that:

- 6 (1) New, different~~[,]~~ or additional requirements for release are necessary; or
7 (2) The conditions ~~[of]~~ **for** release which have been set are excessive; or
8 (3) The ~~[defendant]~~ **accused** has failed to comply with or has violated the conditions ~~[of]~~
9 **for his** release; or
10 (4) The ~~[defendant]~~ **accused** has been convicted of the offense charged.

11 (b) When the ~~[conditions of]~~ **requirements for** release are increased by the court, or new
12 ~~[conditions of release]~~ **requirements** are set ~~[and imposed, the court may remand the defendant]~~
13 **, the accused shall be remanded** to the custody of the sheriff or other officer until compliance
14 with the modified conditions. If the ~~[defendant]~~ **accused** is not in custody, the court may order
15 that a warrant for ~~[the defendant's]~~ **his** arrest be issued.

33.07. Misdemeanors or Felonies - Rules of Evidence Inapplicable

2 Proceedings under Rule 33 shall be informal and **technical** rules of evidence need not
3 apply.

33.08. Misdemeanors or Felonies - Rearrest of ~~[Defendant]~~ **Accused**

2 The court may order ~~[a warrant for]~~ the arrest of ~~[a defendant]~~ **an accused** who has been
3 released ~~[pursuant to Rule 33.01]~~ if it shall appear to the court that:

- 4 (a) There has been a breach of any condition ~~[of release, including but not limited to~~
5 ~~failure to appear for a court ordered court appearance]~~ **for the release**; or
6 (b) ~~[The conditions of release should be modified or new or additional conditions~~
7 ~~imposed.]~~ **The bail should be increased or new or additional security be required or new**
8 **conditions for release be imposed.**

9 ~~[A defendant arrested and confined on a warrant under this Rule]~~ **The accused, upon**
 10 **application**, shall be entitled to a hearing ~~[forthwith, as set forth below,]~~ concerning the reasons
 11 for the issuance of the ~~[warrant]~~ **order**.

12 ~~[A defendant who has not previously had an initial appearance under Rule 21.10 or Rule~~
 13 ~~22.08 shall be brought for an appearance, in person or by interactive video technology, before~~
 14 ~~a judge of the court from which the warrant was issued, as provided by Rule 21.09 or Rule 22.07.~~
 15 ~~This initial appearance shall be held no later than 48 hours, excluding weekends and holidays,~~
 16 ~~after the defendant is confined under the warrant in the county that issued the warrant or in a~~
 17 ~~county with which the county issuing the warrant has a contractual agreement to hold the~~
 18 ~~defendant.~~

19 ~~———— A defendant who has previously had an initial appearance under Rule 21.10 or Rule 22.08~~
 20 ~~shall be brought for an appearance, in person or by interactive video technology, before a judge~~
 21 ~~of the court from which the warrant was issued. This appearance shall be held no later than~~
 22 ~~seven days, excluding weekends and holidays, after the defendant is confined under the warrant~~
 23 ~~in the county that issued the warrant or in a county with which the county issuing the warrant has~~
 24 ~~a contractual agreement to hold the defendant.]~~

33.09. Misdemeanors or Felonies - Failure of Court to Set Conditions ~~[of Release,]~~ or
 2 Setting of Inadequate or Excessive Conditions ~~[of]~~ **for** Release - Application to Higher Court

3 Pursuant to these rules, applicable statutes and constitutional provisions, if ~~[the defendant~~
 4 ~~or the state allege the court unlawfully detained the defendant, failed to detain the defendant, or~~
 5 ~~set]~~ **a court fails to set conditions for release, or sets** inadequate or excessive conditions ~~[of~~
 6 ~~release, the defendant]~~ , **an accused** or the state may seek remedial writ relief in a higher court
 7 pursuant to Rule 84.24.

33.10. Misdemeanors or Felonies - Transmittal of Record by Clerk of the Releasing
 2 Court

3 When any ~~[defendant]~~ **person** is released by a court other than the court in which the
 4 ~~[defendant]~~ **person** is to appear[;] the clerk of the releasing court shall transmit a record of the
 5 release, together with any conditions ~~[of release]~~ imposed, to the clerk of the court in which the
 6 ~~[defendant]~~ **person** released is required to appear.

33.11. Misdemeanors or Felonies - Bonds - Where Filed - Certification by Sheriff or
 2 Peace Officer - Cash Bonds

3 All bonds shall be filed by the clerk of the court in which the ~~[defendant]~~ **person** is
 4 required to appear. All bonds taken by the sheriff or by any other peace officer shall be certified
 5 by such officer and transmitted **forthwith** to the clerk of the court in which the ~~[defendant]~~
 6 **person** is required to appear. When cash or securities specified in Rule 33.01 are taken they

7 shall be delivered **forthwith** to the clerk of the court in which the [~~defendant~~] **person** is required
8 to appear and deposited in the registry of the court.

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