

FIRST REGULAR SESSION

HOUSE BILL NO. 730

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

0730H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 544.455 and 557.011, RSMo, and to enact in lieu thereof three new sections relating to the reimbursement of costs related to electronic monitoring.

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

Section A. Sections 544.455 and 557.011, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 544.454, 544.455, and 557.011, to read as follows:

544.454. 1. (1) There is hereby created in the state treasury the "Electronic Monitoring Reimbursement Fund", which shall consist of moneys collected under subsection 2 of this section and any gifts, donations, or bequests to such fund. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the administration of this section and sections 544.455 and 557.011.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Beginning August 28, 2019, in addition to any costs associated with electronic monitoring, all persons placed on house arrest with electronic monitoring shall be imposed a fee equal to five percent of the amount of the costs associated with electronic monitoring.

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.

17 **3. (1) Any person who receives a verdict of not guilty from a judge or jury or is**
18 **exonerated through DNA evidence on or after August 28, 2022, for an offense in which he**
19 **or she was placed on house arrest with electronic monitoring shall be reimbursed from the**
20 **electronic monitoring reimbursement fund an amount equal to the total amount of the fee**
21 **imposed under subsection 2 of this section and costs associated with electronic monitoring.**
22 **To be eligible for reimbursement under this subsection, a person shall be found not guilty**
23 **for any of the charged offenses for which house arrest with electronic monitoring was**
24 **ordered.**

25 **(2) A person shall not be eligible for reimbursement under this subsection if the**
26 **person was placed on house arrest with electronic monitoring for the offense of domestic**
27 **assault under sections 565.072 to 565.076 or sexual assault as described in section 589.015.**

28 **4. On a quarterly basis, the supplier or company providing the electronic**
29 **monitoring product, service, or system to a person placed on house arrest with electronic**
30 **monitoring shall send all moneys collected under subsection 2 of this section to the**
31 **electronic monitoring reimbursement fund.**

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

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

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

13 (3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit
14 of cash in lieu thereof;

15 (4) Require the person to report regularly to some officer of the court, or peace officer,
16 in such manner as the associate circuit judge or judge directs;

17 (5) Require the execution of a bond in a given sum and the deposit in the registry of the
18 court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable
19 bonds of the United States or of the state of Missouri or any political subdivision thereof;

20 (6) Place the person on house arrest with electronic monitoring~~[-except that]~~. All costs
21 associated with the electronic monitoring shall be charged to the person on house arrest; **except**

22 **that, if, on or after August 28, 2022, such person receives a verdict of not guilty from a**
23 **judge or jury for the offense in which he or she was placed on house arrest with electronic**
24 **monitoring, he or she shall be eligible for reimbursement costs associated with the**
25 **electronic monitoring as provided in subsection 3 of section 544.454. Such reimbursement**
26 **costs shall be paid from the electronic monitoring reimbursement fund established in**
27 **section 544.454.** If the judge finds the person unable to afford the costs associated with
28 electronic monitoring, the judge may order that the person be placed on house arrest with
29 electronic monitoring if the county commission agrees to pay from the general revenue of the
30 county the costs of such monitoring. If the person on house arrest is unable to afford the costs
31 associated with electronic monitoring and the county commission does not agree to pay the costs
32 of such electronic monitoring, the judge shall not order that the person be placed on house arrest
33 with electronic monitoring;

34 (7) Impose any other condition deemed reasonably necessary to assure appearance as
35 required, including a condition requiring that the person return to custody after specified hours.

36 2. In determining which conditions of release will reasonably assure appearance, the
37 associate circuit judge or judge shall, on the basis of available information, take into account the
38 nature and circumstances of the offense charged, the weight of the evidence against the accused,
39 the accused's family ties, employment, financial resources, character and mental condition, the
40 length of his **or her** residence in the community, his **or her** record of convictions, and his **or her**
41 record of appearance at court proceedings or flight to avoid prosecution or failure to appear at
42 court proceedings.

43 3. An associate circuit judge or judge authorizing the release of a person under this
44 section shall issue an appropriate order containing a statement of the conditions imposed, if any,
45 shall inform such person of the penalties applicable to violations of the conditions of his **or her**
46 release and shall advise him **or her** that a warrant for his **or her** arrest will be issued immediately
47 upon any such violation.

48 4. A person for whom conditions of release are imposed and who after twenty-four hours
49 from the time of the release hearing continues to be detained as a result of his **or her** inability
50 to meet the conditions of release, shall, upon application, be entitled to have the condition
51 reviewed by the associate circuit judge or judge who imposed them. The motion shall be
52 determined promptly.

53 5. An associate circuit judge or judge ordering the release of a person on any condition
54 specified in this section may at any time amend his **or her** order to impose additional or different
55 conditions of release; except that, if the imposition of such additional or different conditions
56 results in the detention of the person as a result of his **or her** inability to meet such conditions

57 or in the release of the person on a condition requiring him **or her** to return to custody after
58 specified hours, the provisions of subsection 4 of this section shall apply.

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

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

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

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

557.011. 1. Every person found guilty of an offense shall be dealt with by the court in
2 accordance with the provisions of this chapter, except that for offenses defined outside this code
3 and not repealed, the term of imprisonment or the fine that may be imposed is that provided in
4 the statute defining the offense; however, the conditional release term of any sentence of a term
5 of years shall be determined as provided in subsection 4 of section 558.011.

6 2. Whenever any person has been found guilty of a felony or a misdemeanor the court
7 shall make one or more of the following dispositions of the offender in any appropriate
8 combination. The court may:

- 9 (1) Sentence the person to a term of imprisonment as authorized by chapter 558;
10 (2) Sentence the person to pay a fine as authorized by chapter 560;
11 (3) Suspend the imposition of sentence, with or without placing the person on probation;
12 (4) Pronounce sentence and suspend its execution, placing the person on probation;
13 (5) Impose a period of detention as a condition of probation, as authorized by section
14 559.026.

15 3. Whenever any person has been found guilty of an infraction, the court shall make one
16 or more of the following dispositions of the offender in any appropriate combination. The court
17 may:

- 18 (1) Sentence the person to pay a fine as authorized by chapter 560;
19 (2) Suspend the imposition of sentence, with or without placing the person on probation;
20 (3) Pronounce sentence and suspend its execution, placing the person on probation.

21 4. Whenever any organization has been found guilty of an offense, the court shall make
22 one or more of the following dispositions of the organization in any appropriate combination.

23 The court may:

24 (1) Sentence the organization to pay a fine as authorized by chapter 560;

25 (2) Suspend the imposition of sentence, with or without placing the organization on
26 probation;

27 (3) Pronounce sentence and suspend its execution, placing the organization on probation;

28 (4) Impose any special sentence or sanction authorized by law.

29 5. This chapter shall not be construed to deprive the court of any authority conferred by
30 law to decree a forfeiture of property, suspend or cancel a license, remove a person from office,
31 or impose any other civil penalty. An appropriate order exercising such authority may be
32 included as part of any sentence.

33 6. In the event a sentence of confinement is ordered executed, a court may order that an
34 individual serve all or any portion of such sentence on electronic monitoring~~[-except that]~~. All
35 costs associated with the electronic monitoring shall be charged to the person on house arrest;
36 **except that, if, on or after August 28, 2022, such person is exonerated through DNA**
37 **evidence for the offense in which he or she was placed on house arrest with electronic**
38 **monitoring, he or she shall be eligible for reimbursement for costs associated with the**
39 **electronic monitoring as provided in subsection 3 of section 544.454. Such reimbursement**
40 **costs shall be paid from the electronic monitoring reimbursement fund established in**
41 **section 544.454.** If the judge finds the person unable to afford the costs associated with
42 electronic monitoring, the judge may order that the person be placed on house arrest with
43 electronic monitoring if the county commission agrees to pay the costs of such monitoring. If
44 the person on house arrest is unable to afford the costs associated with electronic monitoring and
45 the county commission does not agree to pay from the general revenue of the county the costs
46 of such electronic monitoring, the judge shall not order that the person be placed on house arrest
47 with electronic monitoring.

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