

FIRST REGULAR SESSION

SENATE BILL NO. 387

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time March 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1786S.011

AN ACT

To repeal sections 221.105, 544.470, and 557.011, RSMo, and to enact in lieu thereof four new sections relating to electronic monitoring of certain offenders.

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

Section A. Sections 221.105, 544.470, and 557.011, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 221.025,
3 221.105, 544.470, and 557.011, to read as follows:

221.025. As an alternative to confinement, an individual may be
2 **placed on electronic monitoring with such terms and conditions as a**
3 **court shall deem just and appropriate under the circumstances. During**
4 **any such period of electronic monitoring, an individual while**
5 **complying with any court ordered restriction, shall be considered in**
6 **custody and such period of electronic monitoring shall be credited**
7 **against any period of confinement or incarceration ordered.**

221.105. 1. The governing body of any county and of any city not within
2 a county shall fix the amount to be expended for the cost of incarceration of
3 prisoners confined in jails or medium security institutions, **or for the cost of**
4 **prisoners on electronic monitoring.** The per diem cost of incarceration **or**
5 **electronic monitoring** of these [prisoners] **individuals** chargeable by the law
6 to the state shall be determined, subject to the review and approval of the
7 department of corrections.

8 2. When the final determination of any criminal prosecution shall be such
9 as to render the state liable for costs under existing [laws] **law**, it shall be the
10 duty of the sheriff to certify to the clerk of the circuit court [or court of common
11 pleas] in which the case was [determined] **prosecuted**, the total number of days

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

12 [any prisoner who was a party in such case remained in the county jail] **an**
13 **individual was in custody or subjected to electronic monitoring.** It shall
14 be the duty of the county commission to supply the cost per diem for county
15 prisons **and for electronic monitoring** to the clerk of the circuit court on the
16 first day of each year, and thereafter, whenever the amount may be changed. It
17 shall [then] be the duty of the clerk of the court in which the case was
18 [determined] **prosecuted** to [include in the] bill [of cost against] the state all
19 fees which are properly chargeable to the state. In any city not within a county
20 it shall be the duty of the superintendent of any facility boarding [prisoners]
21 **individuals** to certify to the chief executive officer of such city not within a
22 county, the total number of days any [prisoner who] **individual** was [a party in
23 such case remained in such facility] **incarcerated and the total number of**
24 **days, if any, such individual was on electronic monitoring.** It shall be the
25 duty of the superintendents of such facilities to supply the cost per diem **for**
26 **individuals and for electronic monitoring** to the chief executive officer on
27 the first day of each year, and thereafter whenever the amount may be changed.
28 It shall be the duty of the chief executive officer to bill the state all fees for
29 boarding such [prisoners] **individuals and for electronic monitoring** which
30 are properly chargeable to the state. The chief executive **officer** may by
31 notification to the department of corrections delegate such responsibility to
32 another duly sworn official of such city not within a county. The clerk of the
33 **circuit** court of any city not within [a] **the** county shall not include such fees in
34 the bill of costs chargeable to the state. The department of corrections shall
35 revise its criminal cost manual in accordance with this provision.

36 3. **Except as provided in subsection 4 of this section** the actual
37 costs chargeable to the state, including those incurred for a prisoner who is
38 incarcerated in the county jail because the prisoner's parole or probation has been
39 revoked or because the prisoner has, or allegedly has, violated any condition of
40 the prisoner's parole or probation, and such parole or probation is a consequence
41 of a violation of a state statute, or the prisoner is a fugitive from the Missouri
42 department of corrections or otherwise held at the request of the Missouri
43 department of corrections regardless of whether or not a warrant has been issued
44 shall be the actual cost of incarceration not to exceed[:

- 45 (1) Until July 1, 1996, seventeen dollars per day per prisoner;
46 (2) On and after July 1, 1996, twenty dollars per day per prisoner;
47 (3) On and after July 1, 1997, up to] thirty-seven dollars and fifty cents

48 per day per prisoner **for incarcerating prisoners confined in jails or**
49 **medium security institutions and not to exceed eight dollars per day**
50 **per prisoner for electronic monitoring supervised by the county**, subject
51 to appropriations, but not less than the amount appropriated in the previous
52 fiscal year.

53 **4. If a court or judge places an individual on electronic**
54 **monitoring, the judge may in his or her discretion charge the costs**
55 **associated with the electronic monitoring to the individual in custody**
56 **as a condition of his or her sentence. If the judge finds the offender**
57 **unable to afford the costs associated with electronic monitoring, then**
58 **those costs would be the responsibility of the state.**

544.470. 1. If the offense is not bailable, **if the individual is not**
2 **granted electronic monitoring**, or if the [person] **individual** does not meet
3 the conditions for release, as provided in section 544.455, the [prisoner]
4 **individual** shall be committed to the jail of the county in which the same is to
5 be tried, there to remain until [he] **such individual** be discharged by due course
6 of law.

7 2. There shall be a presumption that releasing the person under any
8 conditions as provided by section 544.455 shall not reasonably assure the
9 appearance of the person as required if the circuit judge or associate circuit judge
10 reasonably believes that the person is an alien unlawfully present in the United
11 States. If such presumption exists, the person shall be committed to the jail, as
12 provided in subsection 1 of this section, until such person provides verification of
13 his or her lawful presence in the United States to rebut such presumption. If the
14 person adequately proves his or her lawful presence, the circuit judge or associate
15 circuit judge shall review the issue of release, as provided under section 544.455,
16 without regard to previous issues concerning whether the person is lawfully
17 present in the United States. If the person cannot prove his or her lawful
18 presence, the person shall continue to be committed to the jail and remain until
19 discharged by due course of law.

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

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

10 (1) Sentence the person to a term of imprisonment as authorized by
11 chapter 558;

12 (2) Sentence the person to pay a fine as authorized by chapter 560;

13 (3) Suspend the imposition of sentence, with or without placing the person
14 on probation;

15 (4) Pronounce sentence and suspend its execution, placing the person on
16 probation;

17 (5) Impose a period of detention as a condition of probation, as authorized
18 by section 559.026.

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

22 (1) Sentence the person to pay a fine as authorized by chapter 560;

23 (2) Suspend the imposition of sentence, with or without placing the person
24 on probation;

25 (3) Pronounce sentence and suspend its execution, placing the person on
26 probation.

27 4. Whenever any organization has been found guilty of an offense, the
28 court shall make one or more of the following dispositions of the organization in
29 any appropriate combination. The court may:

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

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

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

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

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

41 **6. In the event a sentence of confinement is ordered executed, a**
42 **court may order that an individual serve all or any portion of such**

43 sentence on electronic monitoring with such conditions and limitations
44 as the court shall deem appropriate in the circumstances.

45 7. A circuit court may adopt a local rule authorizing the pretrial
46 release on electronic monitoring in lieu of incarceration of individuals
47 charged with offenses specifically identified therein.

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