

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 487

AN ACT

To repeal sections 544.665, 558.011, and 558.031, RSMo, and to enact in lieu thereof four new sections relating to the release of a person from prison, with penalty provisions.

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

Section A. Sections 544.665, 558.011, and 558.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 544.453, 544.665, 558.011, and 558.031, to read as follows:

544.453. Notwithstanding any provision of the law or court rule, the following shall apply when a judge or judicial officer sets bail in all courts in Missouri and shall be applicable to all offenses charged:

(1) When setting bail and conditions of release in Missouri, consideration of public safety shall be the paramount consideration;

(2) There shall be no requirement that anything but probable cause be established for an arrest warrant to be sought and issued;

(3) A release on one's own recognizance shall consist of the defendant's signature and promise to appear in court as required and also to comply with all nonmonetary conditions of release without having to post any cash, surety, or property as security or being required to later pay the same upon failing to appear in court or comply with nonmonetary conditions of release;

(4) There shall be no presumptions in favor of release on one's own recognizance in any category of offenses, specific offenses, or gradations of offenses. Judges shall

have discretion to release a defendant on his or her own
recognizance if permitted by law;

(5) There shall be a presumption against release on
one's own recognizance with or without nonmonetary
conditions of release that may be overcome by clear and
convincing evidence that a person is not a flight risk or
danger to the community in the following circumstances:

(a) A person has been convicted of a prior felony,
sexual offense, or violent charge within the past five years;

(b) A person is already on bond on a pending charge;

(c) A person is on probation or parole;

(d) A person has committed continuing or severe acts
of arson, rioting, or looting, which may endanger public
safety if released;

(e) A person has failed to appear in court as required
once in the previous three years; and

(f) The results of a risk assessment tool or process,
if available, indicate that the person is not low risk;

(6) Partially secured bonds, bonds in the sum of ten
percent to the court, or unsecured bonds shall not be
permitted in Missouri. A judge shall set bail in a single
monetary amount, which shall be fully secured by the
defendant in a method of the defendant's choosing, including
cash, property, or a surety bond, or a combination thereof.
Courts shall not be permitted to discriminate against a
defendant due to the defendant's selection of a type of
bond, whether it be cash, property, or a surety bond, in
order to fully secure the defendant's release as required
and shall not require a particular type of bond; and

(7) Attorneys shall not be permitted to recover, nor
are courts allowed to enforce, any lien or claim on bail
proceeds deposited with the court, whether it be cash,
property, or a surety bond, within a criminal case. All

proceeds shall be returned to the defendant upon release of the bond.

544.665. 1. In addition to the forfeiture of any security which was given or pledged for a person's release, any person who, having been released upon a recognizance or bond pursuant to any other provisions of law while pending preliminary hearing, trial, sentencing, appeal, probation or parole revocation, or any other stage of a criminal matter against him or her, knowingly fails to appear before any court or judicial officer as required shall be guilty of the [crime] offense of failure to appear, including a person who has been granted release pending trial and violates conditions of release imposed by the court by:

(1) Failing to appear for any court appearance;

(2) Being arrested or formally charged with any new criminal offense; or

(3) Violating any condition of release that the court has placed on the person to secure the appearance of the person at trial, or at any other stage of the criminal proceedings and to secure the safety of the community or other person, including but not limited to the crime victims and witnesses.

2. Failure to appear is:

(1) A class E felony if the criminal matter for which the person was released included a felony;

(2) A class A misdemeanor if the criminal matter for which the person was released includes a misdemeanor or misdemeanors but no felony or felonies;

(3) An infraction if the criminal matter for which the person was released includes only an infraction or infractions;

(4) An infraction if the criminal matter for which the person was released includes only the violation of a

municipal ordinance, provided that the sentence imposed shall not exceed the maximum fine which could be imposed for the municipal ordinance for which the accused was arrested.

3. Nothing in sections 544.040 to 544.665 shall prevent the exercise by any court of its power to punish for contempt.

4. It shall be presumed that a person charged under subdivision (1) subsection 2 of this section who committed a dangerous felony pursuant to section 556.061, will not appear upon a summons; or poses a danger to a crime victim, the community, or any other person and upon a court finding of probable cause of a violation of this section, an arrest warrant shall be issued.

5. The filing of an information, complaint, or indictment, including a charge or charges for violation of subdivision (1) subsection 2 of this section in which a person committed a dangerous felony pursuant to section 556.061, creates a rebuttable presumption that no combination of conditions will secure the safety of the community or other person, including but not limited to crime victims and witnesses, and the offender shall be detained pending trial.

558.011. 1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not less than three years and not to exceed ten years;

(4) For a class D felony, a term of years not to exceed seven years;

(5) For a class E felony, a term of years not to exceed four years;

(6) For a class A misdemeanor, a term not to exceed one year;

(7) For a class B misdemeanor, a term not to exceed six months;

(8) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class D or E felony, it shall commit the person to the custody of the department of corrections.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4. [(1)] Except as otherwise provided, a sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term [and a

conditional release term. The conditional release term of any term imposed under section 557.036 shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other offense, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall

be conducted as provided in section 217.670. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final].

558.031. 1. A sentence of imprisonment shall commence when a person convicted of an offense in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced.

2. Such person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail, or custody after [the offense occurred] conviction and before the commencement of the sentence, when the time in custody was related to that offense, and the circuit court may, when pronouncing sentence, award credit for time spent in prison, jail, or custody after the offense occurred and before conviction toward the service of the sentence of imprisonment, except:

(1) Such credit shall only be applied once when sentences are consecutive;

(2) Such credit shall only be applied if the person convicted was in custody in the state of Missouri, unless such custody was compelled exclusively by the state of Missouri's action; and

(3) As provided in section 559.100.

[2.] 3. The officer required by law to deliver a person convicted of an offense in this state to the department of corrections shall endorse upon the papers required by section 217.305 both the dates the offender was in custody and the period of time to be credited toward the service of the sentence of imprisonment, except as endorsed by such officer.

[3.] 4. If a person convicted of an offense escapes from custody, such escape shall interrupt the sentence. The interruption shall continue until such person is returned to the correctional center where the sentence was being served, or in the case of a person committed to the custody of the department of corrections, to any correctional center operated by the department of corrections. An escape shall also interrupt the jail time credit to be applied to a sentence which had not commenced when the escape occurred.

[4.] 5. If a sentence of imprisonment is vacated and a new sentence imposed upon the offender for that offense, all time served under the vacated sentence shall be credited against the new sentence, unless the time has already been credited to another sentence as provided in subsection 1 of this section.

[5.] 6. If a person released from imprisonment on parole or serving a conditional release term violates any of the conditions of his or her parole or release, he or she may be treated as a parole violator. If the board of probation and parole revokes the parole or conditional release, the paroled person shall serve the remainder of the prison term and conditional release term, as an additional prison term, and the conditionally released person shall serve the remainder of the conditional release term as a prison term, unless released on parole.

7. Subsection 2 of this section shall be applicable to offenses occurring on or after August 28, 2021.