

SECOND REGULAR SESSION

HOUSE BILL NO. 1335

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PETERS.

4084H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

Section A. Chapter 544, RSMo, is amended by adding thereto nineteen new sections, to
2 be known as sections 544.700, 544.702, 544.704, 544.706, 544.708, 544.710, 544.712, 544.714,
3 544.716, 544.718, 544.720, 544.722, 544.724, 544.726, 544.728, 544.730, 544.732, 544.734, and
4 544.736, to read as follows:

544.700. 1. Sections 544.700 to 544.736 shall be known and may be cited as the
2 **"Money Bail Reform Act of 2018".**

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

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

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

11 **(3) "Pretrial services agency" or "pretrial services agent", an agency or agent**
12 **responsible for gathering information about newly arrested defendants and preparing the**
13 **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.

 544.706. Except as otherwise provided by law, a defendant charged in a warrant
2 of arrest with any offense shall not be discharged from custody upon monetary bail except
3 upon a written order of a competent court or magistrate admitting the defendant to bail
4 in the amount determined under subsection 3 of section 544.714 and where an undertaking
5 is furnished, upon a written order of the court or magistrate approving the undertaking.
6 All such orders shall be signed by the court or magistrate and delivered to the officer
7 having custody of the defendant before the defendant is released. Any officer releasing any
8 defendant upon bail other than as provided in this section is guilty of a misdemeanor.

 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 services
8 agent, and the clerk of the court in which the case against the defendant is pending may
9 approve and accept an order authorizing pretrial release or admitting to bail, issue and
10 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; however, the person shall not be

21 considered for release until the person appears before a judge or magistrate for a hearing
22 in accordance with section 544.714 or 544.716.

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

28 5. Except as otherwise provided in subsections 3 and 6 of this section, a person who
29 is arrested and booked for a misdemeanor shall be released by the pretrial services agency
30 subject to signing a release agreement under section 544.730 without further conditions.
31 A person who is arrested and booked for a misdemeanor and who is currently on pretrial
32 release with or without conditions shall not be eligible for release under this subsection and
33 shall instead be considered for release under subsection 6 of this section.

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

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

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

54 8. If the judge or magistrate orders the pretrial release of a person under this
55 section, the person shall be released with or without conditions in accordance with section
56 544.730.

57 **9. An arrested person who is not released under this section shall be considered for**
58 **release under section 544.714 or 544.716 within the time period prescribed in section**
59 **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 shall not consider the pretrial services agency's risk**
30 **assessment or the results of the risk assessment and shall instead determine whether the**
31 **person meets the description of subsection 1 of section 544.716.**

544.714. 1. Except as provided in subsection 6 of this section and section 544.716,
2 **at the arraignment of a person who is in custody, the judge or magistrate shall, after**
3 **considering the pretrial services report with recommendations for conditions of release and**
4 **any relevant information provided by the prosecuting attorney or the defendant, order the**
5 **pretrial release of the person subject to a release agreement under section 544.730 without**
6 **further conditions, unless the judge or magistrate determines that the release will not**
7 **reasonably ensure the appearance of the person as required, the safety of the victim, or**
8 **public safety. If the judge or magistrate releases the person subject to a release agreement**
9 **under section 544.730 without further conditions, the reasons for that decision shall be**
10 **stated in the 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.**

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

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

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

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

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

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

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

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

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

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

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

22 **2. (1) If a motion for pretrial detention is filed under subsection 1 of this section,**
23 **a hearing shall be held before a magistrate or judge to determine whether to release the**

24 defendant pending trial unless the hearing is waived by the defendant, either directly or,
25 if he or she is represented by counsel, through counsel. The defense attorney shall be given
26 notice and a reasonable opportunity to be heard on the matter. If the defendant does not
27 have counsel, the court shall appoint counsel. The hearing shall be held within the time
28 period prescribed by section 544.702, unless the hearing is held after arraignment, in which
29 case the hearing shall be held within forty-eight hours, or unless waived by the defendant
30 either directly or, if represented by counsel, through counsel.

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

35 3. The defendant shall be afforded an opportunity to present witnesses, to
36 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
68 ensure the safety of another person or persons from great bodily harm, the court shall
69 order the person detained pending trial only if the court finds that the defendant meets one
70 of the 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 will be 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.

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

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

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

11 (1) That there is either of the following:

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

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

15 (2) That either of the following:

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

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

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

544.728. 1. The defendant, at any time after an order admitting defendant to bail
2 under section 544.714, instead of giving bail may deposit, with the clerk of the court in
3 which the defendant is held to answer or notified to appear for arraignment, the sum
4 mentioned in the order or a percentage of the sum mentioned in the order, not to exceed
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, 2018, 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, 2018.**

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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