

1 appear.

2 **SECTION 201. AUTHORITY FOR [CITATION] OR ARREST.**

3 * * *

4 (b) Except as otherwise provided by law of this state other than this [act], [an authorized
5 official] may arrest an individual only if:

6 (1) the individual is subject to an order of detention from any jurisdiction,
7 including an arrest warrant or order of revocation of probation, [parole], or release; or

8 (2) subject to subsection (c), [the authorized official] has probable cause to
9 believe the individual is committing or has committed an offense ~~for which a jail or prison~~
10 ~~sentence is authorized.~~

11 (c) If an offense under subsection (b)(2) is [a misdemeanor or non-criminal offense]
12 [punishable by not more than [six months] in jail or prison], [an authorized official] may not
13 arrest the individual unless:

14 (1) the offense is [domestic violence, stalking, driving under the influence,
15 unlawful firearms possession or use, ~~contempt~~, a sexual offense, or other listed offense];

16 **SECTION 202. FORM OF [CITATION].** A [citation] must state ~~in plain language:~~

17 (1) the circumstances of the alleged offense and the provision of law that it violates;

18 * * *

19 **SECTION 204. APPEARANCE ON [CITATION].**

20 (a) If an individual appears as required by a [citation], the court shall issue an order of
21 pretrial release on recognizance in the case for which the [citation] was issued. The order ~~shall~~
22 must include the information required under Section 304(a).

23 (b) If an individual absconds or does not appear as required by a [citation], the court may

1 issue [a summons or an arrest warrant].]

2 **Legislative Note:** *In subsection (b), insert the term or terms for the judicial action or actions the*
3 *state chooses to authorize if an individual fails to appear.*

4
5 * * *

6 **SECTION 301. TIMING.**

7 (a) Unless an arrested individual is released after arrest [under Section 203], the
8 individual is entitled to a hearing to determine release pending trial. Except as otherwise
9 provided in subsection (b), the court shall hold the hearing not later than [48] hours after the
10 arrest.

11 (b) The court may continue a release hearing:

12 (1) On motion of the individual; or

13 (2) ~~In in~~ extraordinary circumstances, ~~the court~~ on its own ~~motion~~ or on motion of
14 ~~a party~~ the [prosecuting authority] ~~may continue a release hearing~~ for not more than [48] hours.

15 (c) At the conclusion of a release hearing, the court shall issue an order of pretrial release
16 or temporary pretrial detention.

17 **Legislative Note:** *In the first sentence of subsection (a), insert the bracketed words if the state*
18 *adopts Article 2.*

19
20 *In subsections (a) and (b), insert the deadlines the state designates for a release hearing and*
21 *continuance of the hearing.*

22
23 In subsection (b), insert the state's term for the state's prosecuting authority.

24
25 **SECTION 303. JUDICIAL DETERMINATION OF RISK.** At a release hearing, the
26 court shall determine, ~~by clear and convincing evidence,~~ whether an arrested individual poses a
27 risk that is relevant to pretrial release. The individual poses a relevant risk only if the court finds
28 by clear and convincing evidence that the individual is likely to abscond, not appear, obstruct

1 justice, violate an order of protection, or cause significant harm to another person. The court
2 ~~may~~ shall consider:

3 (1) available information concerning:

4 ~~(1)~~(A) the nature, seriousness, and circumstances of the alleged offense;

5 (B) the weight of the evidence against the individual;

6 ~~(3)~~(C) the individual's criminal history, history of absconding or nonappearance,
7 and community ties;

8 ~~(4)~~(D) whether the individual has a pending charge in another matter or is under
9 criminal justice supervision;

10 [~~(5)~~(2) a recommendation of a pretrial services agency or relevant information provided
11 by the agency;] and

12 ~~(6)~~(3) other relevant information, including information provided by the individual, the
13 [prosecuting authority], or an alleged victim.

14 **SECTION 304. PRETRIAL RELEASE.**

15 (a) Except as otherwise provided in subsection (b) and Section 308, at a release hearing
16 the court shall issue an order of pretrial release on recognizance of an arrested individual. The
17 order must state ~~in plain language:~~

18 * * *

19 (c) If the court determines under Sections 305, 306, and 307 that pretrial release is
20 appropriate, the court shall issue an order of pretrial release. The order must include ~~in plain~~
21 ~~language~~ the information required under subsection (a) and any restrictive condition imposed by
22 the court.

1 **SECTION 305. PRACTICAL ASSISTANCE; VOLUNTARY SUPPORTIVE**
2 **SERVICES.**

3 * * *

4 (b) If the court determines that practical assistance or a voluntary supportive service is
5 available and sufficient to satisfactorily address a relevant risk that the court has identified under
6 Section 303, the court shall refer the individual to the practical assistance or voluntary supportive
7 service and issue an order of pretrial release under ~~subsection~~ Section 304(c).

8 **SECTION 306. RESTRICTIVE CONDITION OF RELEASE.**

9 (a) If the court determines under Section 305 that practical assistance or voluntary
10 supportive services are not sufficient to satisfactorily address a relevant risk the court has
11 identified under Section 303, the court shall impose the least restrictive condition or conditions
12 reasonably necessary to satisfactorily address the relevant risk and issue an order of pretrial
13 release under ~~subsection~~ Section 304(c).

14 * * *

15 (9) [house arrest];

16 * * *

17 ***Legislative Note:*** *In paragraph (9), insert the state's term for house arrest.*

18 *In paragraph (11), insert the state's term for the state's prosecuting authority.*

19
20 **SECTION 307. FINANCIAL CONDITION OF RELEASE.**

21 (a) Subject to Sections 308 and 403, the court may not impose a restrictive condition
22 under Section 306 that requires initial payment of a fee in a sum greater than an arrested
23 individual is able to pay within [24] hours from personal financial resources ~~within [24] hours~~.
24 If the individual is unable to pay the fee, the court shall waive or modify the fee, or waive or

1 modify the restrictive condition that requires payment of the fee, to the extent necessary to
2 release the individual. If the individual is unable to pay a recurring fee, the court shall waive or
3 modify the recurring fee, or waive or modify the restrictive condition that requires payment of
4 the fee.

5 * * *

6 (d) Subject to Sections 308 and 403, the court may not impose a secured appearance
7 bond:

8 (1) to keep the individual detained;

9 (2) for a non-felony charge, unless the individual has absconded or did not appear
10 [three or more] times in a criminal case or combination of criminal cases, ~~evidenced by~~
11 ~~information in a record provided to the court~~; or

12 (3) in an amount greater than the individual is able to pay within [24] hours from
13 personal financial resources ~~within [24] hours~~.

14 **SECTION 308. TEMPORARY PRETRIAL DETENTION.**

15 (a) At the conclusion of a release hearing, the court may issue an order to temporarily
16 detain the arrested individual until a detention hearing, or may impose a financial condition of
17 release in an amount greater than the individual is able to pay within [24] hours from personal
18 financial resources ~~within [24] hours~~, only if the individual is charged with a covered offense and
19 the court determines, by clear and convincing evidence, that:

20 * * *

21 **SECTION 401. TIMING.**

22 (a) If the court issues an order of temporary pretrial detention under Section 308, or of
23 pretrial release under Section 304 and imposes a restrictive condition that results in continued

1 detention of the individual, the court shall hold a hearing to consider continued detention of the
2 individual pending trial. The hearing must be held not later than [72] hours after issuance of the
3 order.

4 (b) The court on its own ~~motion~~ or on motion of the [prosecuting authority] may for good
5 cause continue the detention hearing for not more than [72] hours.

6 (c) The court shall continue a detention hearing on motion of the individual.

7 (d) At the conclusion of the detention hearing, the court shall issue an order of pretrial
8 release or detention.

9 **Legislative Note:** *In subsections (a) and (b), insert the deadlines the state specifies for a*
10 *detention hearing and continuance of the hearing.*

11
12 *In subsection (b), insert the state's term for the state's prosecuting authority.*
13

14 **SECTION 402. RIGHTS OF DETAINED INDIVIDUAL.**

15 * * *

16 (b) At a detention hearing, the individual has a right to:

17 (1) review evidence to be introduced by the [prosecuting authority] before its
18 introduction at the hearing;

19 (2) present evidence and witnesses and provide information;

20 * * *

21 **Legislative Note:** *In subsection (b)(1), insert the state's term for the state's prosecuting*
22 *authority.*
23

24 **SECTION 501. MODIFYING OR VACATING BY AGREEMENT.** By agreement
25 of the [prosecuting authority] and an individual subject to an order issued under [Article] 3 or 4,
26 the court may:

27 (1) modify an order of pretrial release;

- 1 (2) vacate an order of pretrial detention and issue an order of pretrial release; or
- 2 (3) issue an order of pretrial detention.

3 **Legislative Note:** *In the first sentence, insert the state's term for the state's prosecuting*
4 *authority.*

5
6 **SECTION 502. MOTION TO MODIFY.** On its own ~~motion~~ or on motion of a party,
7 the court may modify an order of pretrial release or detention using the procedures and standards
8 in [Articles] 3 and 4. The court may consider new information relevant to the order, including
9 information that an individual has violated a condition of release. The court may deny the motion
10 summarily if it is not supported by new information.

11 **SECTION 603. TRANSITION.** This [act] applies to an arrest made[, [a citation]
12 issued,] or a release or detention hearing held on or after [the effective date of this [act]],
13 including a hearing to enforce, modify, or vacate a release or detention order entered before the
14 [~~act's~~] effective date of this [act].