

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 91

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MAYER, CROWELL, JETTON AND LIPKE (157) (Co-sponsors).

Pre-filed December 12, 2002, and copies ordered printed.

Read 1<sup>st</sup> time January 8, 2003.

Read 2<sup>nd</sup> time January 9, 2003, and referred to the Committee on Crime Prevention and Public Safety January 16, 2003.

Reported from the Committee on Crime Prevention and Public Safety February 20, 2003, with recommendation that the bill Do Pass.

Taken up for Perfection February 25, 2003. Bill ordered Perfected and printed.

TED WEDEL, Chief Clerk

0706L.01P

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### AN ACT

To repeal sections 50.550, 558.019, and 559.021, RSMo, and to enact in lieu thereof four new sections relating to county crime reduction funds, with penalty provisions.

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

Section A. Sections 50.550, 558.019, and 559.021, RSMo, are repealed and four new  
2 sections enacted in lieu thereof, to be known as sections 50.550, 50.565, 558.019, and 559.021,  
3 to read as follows:

50.550. **1.** The annual budget shall present a complete financial plan for the ensuing  
2 budget year. It shall set forth all proposed expenditures for the administration, operation and  
3 maintenance of all offices, departments, commissions, courts and institutions; the actual or  
4 estimated operating deficits or surpluses from prior years; all interest and debt redemption  
5 charges during the year and expenditures for capital projects.

6 **2.** The budget shall contain adequate provisions for the expenditures necessary for the  
7 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs  
8 of holding circuit court in the county that are chargeable against the county, for the repair and  
9 upkeep of bridges other than on state highways and not in any special road district, and for the  
10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above is proposed language.**

11           **3.** In addition, the budget shall set forth in detail the anticipated income and other means  
12 of financing the proposed expenditures.

13           **4.** All receipts of the county for operation and maintenance shall be credited to the  
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that  
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and  
16 expenditures for roads and bridges may be charged to the special fund.

17           **5.** All receipts from the sale of bonds for any purpose shall be credited to the bond fund  
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All  
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,  
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on  
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the  
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23           **6. Subject to the provisions of section 50.565 the county commission may create a**  
24 **fund to be known as "The ..... County Crime Reduction Fund".**

25           **7.** The county commission may create other funds as are necessary from time to time.

**50.565. 1. A county commission may establish by ordinance or order a fund whose**  
2 **proceeds may be expended only for the purposes provided for in subsection 3 of this**  
3 **section. The fund shall be designated as a county crime reduction fund and shall be under**  
4 **the supervision of a board of trustees consisting of one citizen of the county appointed by**  
5 **the presiding commissioner of the county, one citizen of the county appointed by the sheriff**  
6 **of the county, and one citizen of the county appointed by the county prosecuting attorney.**

7           **2. Money from the county crime reduction fund shall only be expended upon the**  
8 **approval of a majority of the members of the county crime reduction fund's board of**  
9 **trustees and only for the purposes provided for by subsection 3 of this section.**

10           **3. Money from the county crime reduction fund shall only be expended for the**  
11 **following purposes:**

12           **(1) Narcotics investigation, prevention, and intervention;**

13           **(2) Purchase of law enforcement related equipment and supplies for the sheriff's**  
14 **office;**

15           **(3) Matching funds for federal or state law enforcement grants;**

16           **(4) Funding for the reporting of all state and federal crime statistics or information;**

17 **and**

18           **(5) Any law enforcement related expense, including those of the prosecuting**  
19 **attorney, approved by the board of trustees for the county crime reduction fund that is**  
20 **reasonably related to investigation, preparation, trial, and disposition of criminal cases**  
21 **before the courts of the state of Missouri.**

22           **4. The county commission may not reduce any law enforcement agency's budget**  
23 **as a result of funds the law enforcement agency receives from the county crime reduction**  
24 **fund. The crime reduction fund is to be used only as a supplement to the law enforcement**  
25 **agency's funding received from other county, state, or federal funds.**

26           **5. County crime reduction funds shall be audited as are all other county funds.**

          558.019. 1. This section shall not be construed to affect the powers of the governor  
2 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those  
3 provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set  
4 minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

5           2. The provisions of this section shall be applicable to all classes of felonies except those  
6 set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section.  
7 For the purposes of this section, "prison commitment" means and is the receipt by the department  
8 of corrections of a defendant after sentencing. For purposes of this section, prior prison  
9 commitments to the department of corrections shall not include commitment to a regimented  
10 discipline program established pursuant to section 217.378, RSMo. Other provisions of the law  
11 to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found  
12 guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is  
13 committed to the department of corrections shall be required to serve the following minimum  
14 prison terms:

15           (1) If the defendant has one previous prison commitment to the department of  
16 corrections for a felony offense, the minimum prison term which the defendant must serve shall  
17 be forty percent of his sentence or until the defendant attains seventy years of age, and has served  
18 at least forty percent of the sentence imposed, whichever occurs first;

19           (2) If the defendant has two previous prison commitments to the department of  
20 corrections for felonies unrelated to the present offense, the minimum prison term which the  
21 defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy  
22 years of age, and has served at least forty percent of the sentence imposed, whichever occurs  
23 first;

24           (3) If the defendant has three or more previous prison commitments to the department  
25 of corrections for felonies unrelated to the present offense, the minimum prison term which the  
26 defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy  
27 years of age, and has served at least forty percent of the sentence imposed, whichever occurs  
28 first.

29           3. Other provisions of the law to the contrary notwithstanding, any defendant who has  
30 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061,  
31 RSMo, and is committed to the department of corrections shall be required to serve a minimum

32 prison term of eighty-five percent of the sentence imposed by the court or until the defendant  
33 attains seventy years of age, and has served at least forty percent of the sentence imposed,  
34 whichever occurs first.

35 4. For the purpose of determining the minimum prison term to be served, the following  
36 calculations shall apply:

37 (1) A sentence of life shall be calculated to be thirty years;

38 (2) Any sentence either alone or in the aggregate with other consecutive sentences for  
39 crimes committed at or near the same time which is over seventy-five years shall be calculated  
40 to be seventy-five years.

41 5. For purposes of this section, the term "minimum prison term" shall mean time  
42 required to be served by the defendant before he is eligible for parole, conditional release or other  
43 early release by the department of corrections. Except that the board of probation and parole,  
44 in the case of consecutive sentences imposed at the same time pursuant to a course of conduct  
45 constituting a common scheme or plan, shall be authorized to convert consecutive sentences to  
46 concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit  
47 attorney, that the sum of the terms results in an unreasonably excessive total term, taking into  
48 consideration all factors related to the crime or crimes committed and the sentences received by  
49 others similarly situated.

50 6. (1) A sentencing advisory commission is hereby created to consist of eleven members.  
51 One member shall be appointed by the speaker of the house. One member shall be appointed  
52 by the president pro tem of the senate. One member shall be the director of the department of  
53 corrections. Six members shall be appointed by and serve at the pleasure of the governor from  
54 among the following: the public defender commission; private citizens; a private member of the  
55 Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be  
56 appointed by the supreme court, one from a metropolitan area and one from a rural area. All  
57 members of the sentencing commission appointed prior to August 28, 1994, shall continue to  
58 serve on the sentencing advisory commission at the pleasure of the governor.

59 (2) The commission shall study sentencing practices in the circuit courts throughout the  
60 state for the purpose of determining whether and to what extent disparities exist among the  
61 various circuit courts with respect to the length of sentences imposed and the use of probation  
62 for defendants convicted of the same or similar crimes and with similar criminal histories. The  
63 commission shall also study and examine whether and to what extent sentencing disparity among  
64 economic and social classes exists in relation to the sentence of death and if so, the reasons  
65 therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties  
66 relevant to the research and investigation of disparities in death penalty sentencing among  
67 economic and social classes.

68 (3) The commission shall establish a system of recommended sentences, within the  
69 statutory minimum and maximum sentences provided by law for each felony committed under  
70 the laws of this state. This system of recommended sentences shall be distributed to all  
71 sentencing courts within the state of Missouri. The recommended sentence for each crime shall  
72 take into account, but not be limited to, the following factors:

73 (a) The nature and severity of each offense;

74 (b) The record of prior offenses by the offender;

75 (c) The data gathered by the commission showing the duration and nature of sentences  
76 imposed for each crime; and

77 (d) The resources of the department of corrections and other authorities to carry out the  
78 punishments that are imposed.

79 (4) The commission shall publish and distribute its system of recommended sentences  
80 on or before July 1, 1995. The commission shall study the implementation and use of the system  
81 of recommended sentences until July 1, 1998, and return a final report to the governor, the  
82 speaker of the house of representatives, and the president pro tem of the senate. Following the  
83 July 1, 1998, report, the commission may revise the recommended sentences every three years.

84 (5) The governor shall select a chairperson who shall call meetings of the commission  
85 as required or permitted pursuant to the purpose of the sentencing commission.

86 (6) The members of the commission shall not receive compensation for their duties on  
87 the commission, but shall be reimbursed for actual and necessary expenses incurred in the  
88 performance of these duties and for which they are not reimbursed by reason of their other paid  
89 positions.

90 (7) The circuit and associate circuit courts of this state, the office of the state courts  
91 administrator, the department of public safety, and the department of corrections shall cooperate  
92 with the commission by providing information or access to information needed by the  
93 commission. The office of the state courts administrator will provide needed staffing resources.

94 **7. If the imposition or execution of a sentence is suspended, the court may consider**  
95 **ordering restorative justice methods pursuant to section 217.777, RSMo, including any or**  
96 **all of the following, or any other method that the court finds just or appropriate:**

97 (1) Restitution to any victim for costs incurred as a result of the offender's actions;

98 (2) Offender treatment programs;

99 (3) Mandatory community services;

100 (4) Work release programs in local facilities; and

101 (5) Community-based residential and nonresidential programs.

102 **8. If the imposition or execution of a sentence is suspended, in addition to the**  
103 **provisions of subsection 7 of this section, the court may order the assessment and payment**

104 **of a designated amount of money to a county crime reduction fund established by the**  
105 **county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed**  
106 **one thousand dollars for any charged offense. Any money deposited into the county crime**  
107 **reduction fund pursuant to this section shall only be expended pursuant to the provisions**  
108 **of section 50.565, RSMo. County crime reduction funds shall be audited as are all other**  
109 **county funds.**

110 [7.] 9. The provisions of this section shall apply only to offenses occurring on or after  
111 August 28, 1994.

559.021. 1. The conditions of probation shall be such as the court in its discretion deems  
2 reasonably necessary to ensure that the defendant will not again violate the law. When a  
3 defendant is placed on probation he shall be given a certificate explicitly stating the conditions  
4 on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation, the court  
6 may order such conditions as the court believes will serve to compensate the victim, any  
7 dependent of the victim, or society. Such conditions may include, but shall not be limited to:

8 (1) Restitution to the victim or any dependent of the victim, in an amount to be  
9 determined by the judge; and

10 (2) The performance of a designated amount of free work for a public or charitable  
11 purpose, or purposes, as determined by the judge.

12 **3. In addition to such other authority as exists to order conditions of probation, in**  
13 **the case of a plea of guilty or a finding of guilt, the court may order the assessment and**  
14 **payment of a designated amount of money to a county crime reduction fund established**  
15 **by the county commission pursuant to section 50.565, RSMo. Such contribution shall not**  
16 **exceed one thousand dollars for any charged offense. Any money deposited into the county**  
17 **crime reduction fund pursuant to this section shall only be expended pursuant to the**  
18 **provisions of section 50.565, RSMo. County crime reduction funds shall be audited as are**  
19 **all other county funds.**

20 [3.] 4. The defendant may refuse probation conditioned on the performance of free work.  
21 If he does so, the court shall decide the extent or duration of sentence or other disposition to be  
22 imposed and render judgment accordingly. Any county, city, person, organization, or agency,  
23 or employee of a county, city, organization or agency charged with the supervision of such free  
24 work or who benefits from its performance shall be immune from any suit by the defendant or  
25 any person deriving a cause of action from him if such cause of action arises from such  
26 supervision of performance, except for an intentional tort or gross negligence. The services  
27 performed by the defendant shall not be deemed employment within the meaning of the  
28 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall

29 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

30 [4.] 5. The court may modify or enlarge the conditions of probation at any time prior to  
31 the expiration or termination of the probation term.

32 **6. The defendant may refuse probation conditioned on a payment to a county crime**  
33 **reduction fund. If he or she does so, the court shall decide the extent or duration of**  
34 **sentence or other disposition to be imposed and render judgment accordingly. A judge**  
35 **may order payment to a crime reduction fund only if such fund had been created prior to**  
36 **sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall**  
37 **not have any direct supervisory authority or administrative control over any fund to which**  
38 **the judge is ordering the probationers to make payments. A defendant who fails to make**  
39 **a payment or payments to a county crime reduction fund may not have his probation**  
40 **revoked solely for failing to make such payment unless the judge, after evidentiary hearing,**  
41 **makes a finding supported by a preponderance of the evidence that the defendant either**  
42 **willfully refused to make the payment or that the defendant willfully, intentionally, and**  
43 **purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.**