

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 138

AN ACT

To repeal sections 217.305 and 217.380, RSMo, and to enact in lieu thereof five new sections relating to the department of corrections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 217.305 and 217.380, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as
3 sections 217.105, 217.305, 217.343, 217.380, and 1, to read as
4 follows:

5 217.105. 1. As used in this section, the following terms
6 mean:

7 (1) "Director", the director of the Missouri department of
8 corrections or his or her designated agent or representative;

9 (2) "Corrections officer", a corrections officer of the
10 state or any political subdivision of the state;

11 (3) "COCC", corrections officer certification commission.

12 2. There is hereby established within the department of
13 corrections a "Corrections Officer Certification Commission"
14 which shall be composed of nine members nominated by the director
15 and appointed by the governor with the advice and consent of the
16 senate:

1 (1) Three members shall be department of corrections
2 officers below the rank of lieutenant; of which, at least two
3 will be members of a statewide association of corrections
4 officers with more than one thousand members;

5 (2) Three members shall be corrections officers or
6 supervisors above the rank of sergeant; two of which must be the
7 rank of lieutenant or captain. Of these three, at least one will
8 be a member of a statewide association of corrections officers
9 with more than one thousand members;

10 (3) Two members shall be county sheriffs, at least one of
11 whom shall be from a third class county; and

12 (4) One member shall represent the general public.

13 3. Each member shall be at the time of appointment a
14 citizen of the United States and a resident of this state for a
15 period of at least one year.

16 4. The original members of the commission shall be
17 appointed as follows:

18 (1) Three for terms of one year;

19 (2) Three for terms of two years; and

20 (3) Three for terms of three years.

21 Thereafter, all terms of membership on the commission shall be
22 for three years or until a successor is appointed.

23 5. The director may remove any member of the commission for
24 misconduct or neglect of office. Any member of the commission
25 may be removed for cause by the director but such member shall
26 first be presented with a written statement of the reasons
27 thereof.

28 6. Any vacancy in the membership of the commission shall be

1 filled by appointment for the unexpired term.

2 7. Annually the director shall appoint one of the members
3 as chairperson. The commission shall meet to perform its duties
4 at least once each year as determined by the director or a
5 majority of the members. A majority of the members of the
6 commission shall constitute a quorum.

7 8. No member of the commission shall receive any
8 compensation for the performance of official duties but the
9 members shall be reimbursed for their necessary expenses.

10 9. The commission may:

11 (1) Cause a job task analysis to be made of the jobs of
12 corrections officers pursuant to this chapter; jailers pursuant
13 to chapter 221, RSMo; jailers in charter counties and private
14 jail custody staff;

15 (2) Make recommendations to the department of corrections,
16 the legislature, or the governor concerning the qualifications,
17 training, testing, and certification of corrections officers,
18 jailers and private jail custody staff;

19 (3) Recommend qualifications and training standards for
20 corrections officers pursuant to this chapter, jailers pursuant
21 to chapter 221, RSMo, and jailers in charter counties.

22 10. The director may establish various classes of
23 corrections officers certification.

24 11. The name, certification status, and employing
25 corrections agency of any of the applicants or individuals
26 certified pursuant to this chapter shall be open record. All
27 other records retained by the director pertaining to any
28 applicant or certified officer shall be confidential and shall

1 not be disclosed to the public or any member of the public,
2 except with the written consent of the person or entity whose
3 records are involved, provided, however, that the director may
4 disclose such information in the course of interstate exchange of
5 information, during the course of litigation involving the
6 director or to other state agencies. No closed record conveyed
7 to the director pursuant to this chapter shall lose its status as
8 a closed record solely because it is retained by the director.
9 Nothing in this chapter shall be used to compel the director to
10 disclose any record subject to attorney-client privilege or work-
11 product privilege.

12 217.305. 1. The sheriff or other officer charged with the
13 delivery of persons committed to the department for confinement
14 in a correctional center shall deliver the person to the
15 reception and diagnostic center designated by the director at
16 times and dates as designated by the director and shall receive a
17 certificate of delivery of the offender from the center.

18 2. Appropriate information relating to the offender shall
19 be provided to the department in a written or electronic format,
20 at or before the time the offender is delivered to the
21 department, including, but not limited to:

22 (1) A copy of the sentence received from the clerk of the
23 sentencing court. If provided in written form, this document
24 shall be certified by the court on the standardized form
25 developed by the office of state courts administrator. Such form
26 shall include specifics on any status violated, court-ordered
27 probation not supervised by the department, the offense cycle
28 number and any court-ordered restitution owed to the victim;

1 (2) [All other judgment, sentencing and commitment orders
2 of the court, or such documents as authorized by the prosecuting
3 attorney or circuit attorney or required by the department;

4 (3) Further] Available information provided in writing by
5 the prosecutor regarding the offender's age, crime for which
6 sentenced [and], probable cause statement, circumstances
7 surrounding the crime and sentence, names, telephone numbers, and
8 last know address of victims, victim impact statements, and
9 personal history, which may include facts related to [his] the
10 offender's home environment, or work habits, gang affiliations,
11 if any, and previous convictions and commitments. Such
12 information shall be prepared by the prosecuting attorney of the
13 county or circuit attorney of any city not within a county who
14 was charged with the offender's prosecution;

15 (3) Information provided by the sheriff or other officer
16 charged with the delivery of persons committed to the department
17 regarding the offender's physical and mental health while in
18 jail. All records on medication, care, and treatment provided to
19 the offender while in jail shall be provided to the department
20 prior to or upon delivery of the offender. If the offender has
21 had no physical or mental health care or medications while in
22 jail, the sheriff or other officer shall certify that no physical
23 or mental health care or medication records are available. The
24 sheriff shall provide certification of all applicable jail-time
25 credit.

26 3. The department may refuse to accept any offender who is
27 delivered for confinement without all required information.

28 217.343. Offenders who are younger than seventeen years of

1 age and have been adjudicated as an adult shall be emancipated
2 for the purpose of decision-making and participation in all
3 department programs and services, including but not limited to,
4 medical care, mental health care, treatment programs, educational
5 programs, work assignments, and rehabilitative programs.

6 217.380. 1. When an offender is found guilty of a
7 violation of a correctional facility rule or convicted of a
8 felony or misdemeanor, a record of such violation or conviction
9 shall be recorded in the offender's file and in a central record.
10 The record shall clearly state the offense, the reporting
11 officer's name, when and where the violation or offense was
12 committed and the action taken by any disciplinary body or other
13 personnel of the department.

14 2. An offender who has violated any published rule or
15 regulation of the division or correctional facility relating to
16 the conduct of offenders may, after proper hearing and upon order
17 of the chief administrative officer or his or her designee of the
18 correctional facility, be confined in a disciplinary segregation
19 unit for a period not to exceed thirty days. Disciplinary
20 segregation of more than ten days may only be given for serious
21 conduct violations as defined by rule or regulation of the
22 division.

23 3. Violation hearings under the provision of subsection 2
24 of this section are not contested cases under the provisions of
25 chapter 536, RSMo. Violation hearings under the provisions of
26 subsection 2 of this section are not subject to the rules of
27 evidence. The department may promulgate rules for violation
28 hearings under the authority of subsection 2 of section 217.040.

1 The conduct of and order from a violation hearing under the
2 provisions of subsection 2 are final and unappealable.

3 Section 1. 1. The governor is hereby authorized and
4 empowered to sell, transfer, grant, and convey all interest in
5 fee simple absolute in property owned by the state in the County
6 of Cole to any person at a public offering as provided in
7 subsection 2 of this section. The property to be conveyed is
8 more particularly described as follows:

9 Part of the Northeast Quarter, all the East Half
10 of the Northwest Quarter and all of the Northwest
11 Quarter of the Northwest Quarter of Section 24,
12 Township 45 North, Range 13 West, part of the Southwest
13 Quarter and part of the Southeast Quarter of Section
14 13, Township 45 North, Range 13 West, part of the
15 Northwest Quarter, part of the West Half of the
16 Southeast Quarter, part of the East Half of the
17 Southeast Quarter of the Southwest Quarter and all of
18 the North Half of the Southwest Quarter of Section 19,
19 Township 45 North, Range 12 West, Cole County,
20 Missouri, more particularly described as follows:

21
22 BEGINNING at the east quarter corner of the aforesaid
23 Section 24, Township 45 North, Range 13 West; thence
24 N88E16'58"W, along the Quarter Section Line, 2661.16
25 feet to the center of said Section 24; thence
26 N88E24'46"W, along the Quarter Section Line, 1319.23
27 feet to the southwest corner of the East Half of the
28 Northwest Quarter of said Section 24; thence
29 N1E40'05"E, along the Quarter Quarter Section Line,
30 1323.95 feet to the Southeast corner of the Northwest
31 Quarter of the Northwest Quarter of said Section 24;
32 thence N88E19'45"W, along the Quarter Quarter Section
33 Line, 1321.65 feet to the southwest corner of the
34 Northwest Quarter of the Northwest Quarter of said
35 Section 24; thence N1E33'47"E, along the Section Line,
36 1325.88 feet to the southwest corner of the aforesaid
37 Section 13, Township 45 North, Range 13 West; thence
38 N1E04'17"E, along the Section Line, 1933.85 feet to a
39 point intersecting the southerly line of the Missouri
40 State Highway 179 right-of-way; thence Easterly, along
41 said right-of-way line, the following courses:
42 S85E51'30"E, 6.04 feet; thence Southeasterly, on a
43 curve to the right, having a radius of 1392.76 feet, an
44 arc distance of 837.42 feet, (the chord of said curve

1 being S68E38'00"E, 824.86 feet); thence S51E24'30"E,
2 1201.50 feet; thence Easterly, on a curve to the left,
3 having a radius of 995.40 feet, an arc distance of
4 1085.00 feet, (the chord of said curve being
5 S82E38'05"E, 1032.08 feet); thence N66E08'20"E, 291.10
6 feet; thence Easterly, on a curve to the right, having
7 a radius of 915.40 feet, an arc distance of 845.10
8 feet, (the chord of said curve being S87E24'48"E,
9 815.40 feet); thence S52E16'32"E, 107.98 feet; thence
10 S54E11'40"E, 317.10 feet; thence S35E48'20"W, 50.00
11 feet; thence S63E24'20"E, 374.83 feet; thence
12 S54E11'40"E, 4571.41 feet; thence Southeasterly, on a
13 curve to the left, having a radius of 1955.79 feet, an
14 arc distance of 921.70 feet, (the chord of said curve
15 being S67E41'43"E, 913.20 feet); thence S81E11'46"E,
16 369.20 feet; thence Southeasterly, on a curve to the
17 right, having a radius of 1870.10 feet, an arc distance
18 of 103.54 feet, (the chord of said curve being
19 S79E36'36"E, 103.53 feet) to a point intersecting the
20 east line of the West Half of the Southeast Quarter of
21 the aforesaid Section 19; thence leaving the southerly
22 line of the aforesaid Missouri State Highway 179
23 right-of-way, S2E57'28"W, along the Quarter Quarter
24 Section Line, 2615.96 feet to the southeast corner of
25 the West Half of the Southeast Quarter of the aforesaid
26 Section 19, Township 45 North, Range 12 West; thence
27 N87E18'24"W, along the Section Line, 2.13 feet to a
28 point intersecting the Northerly line of a 60 foot wide
29 Cole County public road right-of-way known as Wade Road
30 and described in Book 408, page 573, Cole County
31 Recorder's Office; thence Westerly, along said
32 right-of-way line, the following courses:
33 Northwesterly, on a curve to the left, having a radius
34 of 225.97 feet, an arc distance of 27.80 feet, (the
35 chord of said curve being N67E54'24"W, 27.78 feet);
36 thence N71E25'51"W, 42.80 feet; thence Northwesterly,
37 on a curve to the right, having a radius of 370.00
38 feet, an arc distance of 258.52 feet, (the chord of said
39 curve being N51E24'51"W, 253.30 feet); thence
40 N31E23'51"W, 201.55 feet; thence Northwesterly, on a
41 curve to the left, having a radius of 400.00 feet, an
42 arc distance of 161.27 feet, (the chord of said curve
43 being N42E56'51"W, 160.18 feet); thence N54E29'51"W,
44 79.59 feet; thence Northwesterly, on a curve to the
45 right, having a radius of 1970.00 feet, an arc distance
46 of 170.20 feet, (the chord of said curve being
47 N52E01'21"W, 170.15 feet); thence N49E32'51"W, 282.84
48 feet; thence N52E13'51"W, 135.50 feet; thence
49 Northwesterly, on a curve to the left, having a radius
50 of 930.00 feet, an arc distance of 162.86 feet, (the
51 chord of said curve being N57E14'51"W, 162.65 feet);

1 thence N62E15'51"W, 94.99 feet; thence Northwesterly,
2 on a curve to the left, having a radius of 280.00 feet,
3 an arc distance of 99.04 feet, (the chord of said curve
4 being N72E23'51"W, 98.53 feet); thence N82E31'51"W,
5 144.35 feet; thence Southwesterly, on a curve to the
6 left, having a radius of 280.00 feet, an arc distance
7 of 297.37 feet, (the chord of said curve being
8 S67E02'39"W, 283.59 feet); thence S36E37'09"W, 332.65
9 feet; thence Southwesterly, on a curve to the right,
10 having a radius of 250.00 feet, an arc distance of
11 107.27 feet, (the chord of said curve being
12 S48E54'39"W, 106.44 feet); thence S61E12'09"W, 83.39
13 feet to a point intersecting the west line of the East
14 Half of the Southeast Quarter of the Southwest Quarter
15 of the aforesaid Section 19; thence leaving the
16 northerly line of the aforesaid Wade Road right-of-way,
17 N2E11'36"E, along the west line of the East Half of the
18 Southeast Quarter of the Southwest Quarter of said
19 Section 19, 846.39 feet to the northwest corner
20 thereof; thence N87E38'52"W, along the Quarter Quarter
21 Section Line, 2149.28 feet to the southwest corner of
22 the North Half of the Southwest Quarter of said Section
23 19; thence N1E29'12"E, along the Range Line, 1017.72
24 feet to the POINT OF BEGINNING.
25 Containing 656.14 acres.

26
27 2. The commissioner of administration shall set the terms
28 and conditions for public sale as the commissioner deems
29 reasonable. Such terms and conditions may include, but are not
30 limited to, the number of appraisals required, the time, place,
31 and terms of the sale, whether a minimum bid shall be required;
32 and whether to contract for the services of a public auctioneer
33 to market the property. The auctioneer, if any, may receive the
34 usual and customary fee. All costs and fees, directly related to
35 the sale, shall be paid from the proceeds of the sale. All
36 proceeds received for the sale, in excess of the costs, shall be
37 used to assist in the funding of the construction or repair or
38 maintenance of state correctional facilities.

39 3. The attorney general shall approve the form of the

1 instrument of conveyance.