

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 91**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Pensions and General Laws, May 1, 2003, with recommendation that the Senate Committee Substitute do pass.

0706S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 50.550, 558.019, and 559.021, RSMo, and to enact in lieu thereof five 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:*

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Section A. Sections 50.550, 558.019, and 559.021, RSMo, are repealed and five  
2 new sections enacted in lieu thereof, to be known as sections 50.550, 50.565, 558.019,  
3 559.021, and 650.350, to read as follows:

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

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

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

15 **4.** All receipts of the county for operation and maintenance shall be credited to

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 the general fund, and all expenditures for these purposes shall be charged to this fund;  
17 except, that receipts from the special tax levy for roads and bridges shall be kept in a  
18 special fund and expenditures for roads and bridges may be charged to the special fund.

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

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

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

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

9       **2. Money from the county crime reduction fund shall only be expended**  
10 **upon the approval of a majority of the members of the county crime reduction**  
11 **fund's board of trustees and only for the purposes provided for by subsection**  
12 **3 of this section.**

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

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

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

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

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

21       **(5) Any law enforcement related expense, including those of the**  
22 **prosecuting attorney, approved by the board of trustees for the county crime**  
23 **reduction fund that is reasonably related to investigation, preparation, trial,**

24 **and disposition of criminal cases before the courts of the state of Missouri.**

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

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

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

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

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

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

26 (3) If the defendant has three or more previous prison commitments to the  
27 department of corrections for felonies unrelated to the present offense, the minimum  
28 prison term which the defendant must serve shall be eighty percent of his sentence or

29 until the defendant attains seventy years of age, and has served at least forty percent  
30 of the sentence imposed, whichever occurs first.

31         3. Other provisions of the law to the contrary notwithstanding, any defendant  
32 who has pleaded guilty to or has been found guilty of a dangerous felony as defined in  
33 section 556.061, RSMo, and is committed to the department of corrections shall be  
34 required to serve a minimum prison term of eighty-five percent of the sentence imposed  
35 by the court or until the defendant attains seventy years of age, and has served at least  
36 forty percent of the sentence imposed, whichever occurs first.

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

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

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

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

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

63             (2) The commission shall study sentencing practices in the circuit courts  
64 throughout the state for the purpose of determining whether and to what extent

65 disparities exist among the various circuit courts with respect to the length of sentences  
66 imposed and the use of probation for defendants convicted of the same or similar crimes  
67 and with similar criminal histories. The commission shall also study and examine  
68 whether and to what extent sentencing disparity among economic and social classes  
69 exists in relation to the sentence of death and if so, the reasons therefor. It shall  
70 compile statistics, examine cases, draw conclusions, and perform other duties relevant  
71 to the research and investigation of disparities in death penalty sentencing among  
72 economic and social classes.

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

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

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

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

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

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

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

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

98 (7) The circuit and associate circuit courts of this state, the office of the state  
99 courts administrator, the department of public safety, and the department of corrections  
100 shall cooperate with the commission by providing information or access to information

101 needed by the commission. The office of the state courts administrator will provide  
102 needed staffing resources.

103 **7. If the imposition or execution of a sentence is suspended, the court**  
104 **may consider ordering restorative justice methods pursuant to section**  
105 **217.777, RSMo, including any or all of the following, or any other method that**  
106 **the court finds just or appropriate:**

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

109 **(2) Offender treatment programs;**

110 **(3) Mandatory community services;**

111 **(4) Work release programs in local facilities; and**

112 **(5) Community-based residential and nonresidential programs.**

113 **8. If the imposition or execution of a sentence is suspended, in addition**  
114 **to the provisions of subsection 7 of this section, the court may order the**  
115 **assessment and payment of a designated amount of money to a county crime**  
116 **reduction fund established by the county commission pursuant to section**  
117 **50.565, RSMo. Such contribution shall not exceed one thousand dollars for**  
118 **any charged offense. Any money deposited into the county crime reduction**  
119 **fund pursuant to this section shall only be expended pursuant to the**  
120 **provisions of section 50.565, RSMo. County crime reduction funds shall be**  
121 **audited as are all other county funds.**

122 **[7.] 9.** The provisions of this section shall apply only to offenses occurring on or  
123 after August 28, 1994.

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

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

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

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

13 **3. In addition to such other authority as exists to order conditions of**

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

22 [3.] 4. The defendant may refuse probation conditioned on the performance of  
23 free work. If he does so, the court shall decide the extent or duration of sentence or  
24 other disposition to be imposed and render judgment accordingly. Any county, city,  
25 person, organization, or agency, or employee of a county, city, organization or agency  
26 charged with the supervision of such free work or who benefits from its performance  
27 shall be immune from any suit by the defendant or any person deriving a cause of action  
28 from him if such cause of action arises from such supervision of performance, except for  
29 an intentional tort or gross negligence. The services performed by the defendant shall  
30 not be deemed employment within the meaning of the provisions of chapter 288, RSMoA  
31 defendant performing services pursuant to this section shall not be deemed an employee  
32 within the meaning of the provisions of chapter 287, RSMo.

33 [4.] 5. The court may modify or enlarge the conditions of probation at any time  
34 prior to the expiration or termination of the probation term.

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

**650.350. 1. There is hereby created within the department of public safety the "Missouri Sheriff Methamphetamine Relief Taskforce" (MoSMART). MoSMART shall be composed of five sitting sheriffs. Every two years, the Missouri sheriffs' association board of directors will submit twenty names of sitting sheriffs to the governor. The governor shall appoint five members from the list of twenty names, having no more than three from any one political party, to serve a term of two years on MoSMART. The members shall elect a chair from among their membership. Members shall receive no compensation for the performance of their duties pursuant to this section, but each member shall be reimbursed from the MoSMART fund for actual and necessary expenses incurred in carrying out duties pursuant to this section.**

**2. MoSMART shall meet no less than twice each calendar year with additional meetings called by the chair upon the request of at least two members. A majority of the appointed members shall constitute a quorum.**

**3. A special fund is hereby created in the state treasury to be know as the "MoSMART Fund". The state treasurer shall invest the moneys in such fund in the manner authorized by law. All moneys received for MoSMART from interest, state, and federal moneys shall be deposited to the credit of the fund. The director of the department of public safety shall distribute at least fifty percent but not more than one hundred percent of the fund annually in the form of grants approved by MoSMART.**

**4. All moneys appropriated to or received by MoSMART shall be deposited and credited to the MoSMART fund. The department of public safety shall only be reimbursed for actual and necessary expenses for the administration of MoSMART, which shall be no less than one percent and which shall not exceed two percent of all moneys appropriated to the fund. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the MoSMART fund shall not lapse to general revenue at the end of the biennium.**

**5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority**



38 and any rule proposed or adopted after August 28, 2003, shall be invalid and  
39 void.

40       **6. Any county law enforcement entity or established task force with a**  
41 **memorandum of understanding and protocol may apply for grants from the**  
42 **MoSMART fund on an application to be developed by the department of public**  
43 **safety with the approval of MoSMART. All applications shall be evaluated by**  
44 **MoSMART and approved or denied based upon the level of funding designated**  
45 **for methamphetamine enforcement before 1997 and upon current need and**  
46 **circumstances. No applicant shall receive a MoSMART grant in excess of one**  
47 **hundred thousand dollars per year. The department of public safety shall**  
48 **monitor all MoSMART grants.**

49       **7. MoSMART's anti-methamphetamine funding priorities are as follows:**

50       **(1) Sheriffs who are participating in coordinated multi-jurisdictional**  
51 **task forces and have their task forces apply for funding;**

52       **(2) Sheriffs whose county has been designated HIDTA counties, yet**  
53 **have received no HIDTA or narcotics assistance program funding; and**

54       **(3) Sheriffs without HIDTA designations or task forces, whose**  
55 **application justifies the need for MoSMART funds to eliminate**  
56 **methamphetamine labs.**

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