

SECOND REGULAR SESSION

# HOUSE BILL NO. 1709

92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE JOLLY.

Read 1<sup>st</sup> time April 1, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5012L.011

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## AN ACT

To repeal section 558.016, RSMo, and to enact in lieu thereof one new section relating to parole, with penalty provisions and an emergency clause.

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

Section A. Section 558.016, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.016, to read as follows:

558.016. 1. The court may sentence a person who has pleaded guilty to or has been found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment authorized by a statute governing the offense if it finds the defendant is a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment if it finds the defendant is a persistent offender or a dangerous offender.

2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one felony.

3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of two or more felonies committed at different times.

4. A "dangerous offender" is one who:

(1) Is being sentenced for a felony during the commission of which he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person; and

(2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been found guilty of two or more class A or B misdemeanors, committed at different times, which are defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575,

19 and 576, RSMo.

20 6. The pleas or findings of guilty shall be prior to the date of commission of the present  
21 offense.

22 7. The total authorized maximum terms of imprisonment for a persistent offender or a  
23 dangerous offender are:

24 (1) For a class A felony, any sentence authorized for a class A felony;

25 (2) For a class B felony, any sentence authorized for a class A felony;

26 (3) For a class C felony, any sentence authorized for a class B felony;

27 (4) For a class D felony, any sentence authorized for a class C felony.

28 8. An offender convicted of a nonviolent class C or class D felony **on or after June 27,**  
29 **2003**, with no prior prison commitments, after serving one hundred twenty days of his or her  
30 sentence, may, in writing, petition the court to serve the remainder of his or her sentence on  
31 probation, parole, or other court-approved alternative sentence. No hearing shall be conducted  
32 unless the court deems it necessary. Upon the offender petitioning the court, the department of  
33 corrections shall submit a report to the sentencing court which evaluates the conduct of the  
34 offender while in custody, alternative custodial methods available to the offender, and shall  
35 recommend whether the offender be released or remain in custody. If the report issued by the  
36 department is favorable and recommends probation, parole, or other alternative sentence, the  
37 court shall follow the recommendations of the department if the court deems it appropriate. Any  
38 placement of an offender pursuant to section 559.115, RSMo, shall be excluded from the  
39 provisions of this subsection. **This subsection shall not apply to any conviction occurring**  
40 **before June 27, 2003.**

Section B. Because of the immediate danger posed to the public from the premature  
2 release of felons from prison, section A of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
4 emergency act within the meaning of the constitution, and section A of this act shall be in full  
5 force and effect upon its passage and approval.