

FIRST REGULAR SESSION

# HOUSE BILL NO. 49

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES JOLLY (Sponsor) AND HARRIS (23) (Co-sponsor).

Pre-filed December 1, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0368L.011

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### AN ACT

To repeal section 558.016, RSMo, and to enact in lieu thereof one new section relating to prior or persistent offenders.

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Section A. Section 558.016, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.016, to read as follows: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

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

17 found guilty of two or more class A or B misdemeanors, committed at different times, which are  
18 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 with no prior prison  
29 commitments, after serving one hundred twenty days of his or her sentence, may, in writing,  
30 petition the **sentencing** court to serve the remainder of his or her sentence on probation, parole,  
31 or other court-approved alternative sentence. **The offender shall concurrently serve a copy**  
32 **of the petition on the prosecuting attorney that prosecuted the offense.** No hearing shall be  
33 conducted unless the court deems it necessary. **If the court deems that a hearing is necessary,**  
34 **the state shall be a party, represented by the prosecuting attorney that prosecuted the**  
35 **offense.** Upon the offender petitioning the court, the department of corrections shall submit a  
36 report to the sentencing court which evaluates the conduct of the offender while in custody,  
37 alternative custodial methods available to the offender, **the statement of any victim or witness**  
38 **as those terms are defined in section 595.200, RSMo, concerning the release of the offender,**  
39 and shall recommend whether the offender be released or remain in custody. **The department**  
40 **of corrections shall provide the sentencing court with the report within sixty days after the**  
41 **offender petitions the court.** If the report issued by the department is favorable and  
42 recommends probation, parole, or other alternative sentence[, the court shall follow the  
43 recommendations of the department if] **and** the court deems it appropriate **in light of all the**  
44 **information before the court, the court may follow the recommendations of the**  
45 **department.** Any placement of an offender pursuant to section 559.115, RSMo, shall be  
46 excluded from the provisions of this subsection.