

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 700

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MOORE (Sponsor), KELLY, TILLEY, YATES, COOPER (120), FISHER, WILDBERGER, DARROUGH, POLLOCK, AULL, HARRIS (110), BAKER (25), JOLLY, BROWN (50), DEEKEN, BRUNS, RICHARD, KINGERY, NIEVES, PEARCE, LIPKE, WASSON, NOLTE, SELBY, BARNITZ, MEADOWS, ST. ONGE, HOBBS, PORTWOOD, SELF, KRAUS, MUSCHANY, CUNNINGHAM (86), SCHLOTTACH, WETER, ROBB, RUESTMAN, STEVENSON, WILSON (119), SANDER, WELLS, MUNZLINGER, SATER, PARSON, JONES, SCHAD, NANCE, LEMBKE, GOODMAN AND WOOD (Co-sponsors).

Read 1st time March 2, 2005 and copies ordered printed.

Read 2nd time March 3, 2005 and referred to the Committee Corrections and Public Institutions March 10, 2005.

Reported from the Committee on Corrections and Public Institutions March 16, 2005 with recommendation that the bill Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules March 30, 2005 with recommendation that the bill Do Pass with no time limit for debate.

Taken up for Perfection April 5, 2005. Bill ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

1971L.01P

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## AN ACT

To repeal sections 217.690 and 565.092, RSMo, and to enact in lieu thereof three new sections relating to the department of corrections, with penalty provisions.

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

Section A. Sections 217.690 and 565.092, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 217.690, 565.085, and 565.092, to read as  
3 follows:

217.690. 1. When in its opinion there is reasonable probability that an offender of a  
2 correctional center can be released without detriment to the community or to himself, the board  
3 may in its discretion release or parole such person except as otherwise prohibited by law. All  
4 paroles shall issue upon order of the board, duly adopted.

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.

5           2. Before ordering the parole of any offender, the board shall have the offender appear  
6 before a hearing panel and shall conduct a personal interview with him, unless waived by the  
7 offender. A parole shall be ordered only for the best interest of society, not as an award of  
8 clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be  
9 placed on parole only when the board believes that he is able and willing to fulfill the obligations  
10 of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the  
11 department but shall be subject to the orders of the board.

12           3. **The board has discretionary authority to require the payment of a fee, not to**  
13 **exceed sixty dollars per month, from every offender placed under board supervision on**  
14 **probation, parole, or conditional release, to waive all or part of any fee, to sanction**  
15 **offenders for willful nonpayment of fees, and to contract with a private entity for fee**  
16 **collections services. All fees collected shall be deposited in the inmate fund established in**  
17 **section 217.430. Fees collected may be used to pay the costs of contracted collections**  
18 **services. The fees collected may otherwise be used to provide community corrections and**  
19 **intervention services for offenders. Such services include substance abuse assessment and**  
20 **treatment, mental health assessment and treatment, electronic monitoring services,**  
21 **residential facilities services, employment placement services, and other offender**  
22 **community corrections or intervention services designated by the board to assist offenders**  
23 **to successfully complete probation, parole, or conditional release. The board shall adopt**  
24 **rules not inconsistent with law, in accordance with section 217.040, with respect to**  
25 **sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.**

26           4. The board shall adopt rules not inconsistent with law, in accordance with section  
27 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or  
28 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall  
29 recite the conditions of such parole.

30           [4.] 5. When considering parole for an offender with consecutive sentences, the  
31 minimum term for eligibility for parole shall be calculated by adding the minimum terms for  
32 parole eligibility for each of the consecutive sentences, except the minimum term for parole  
33 eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

34           [5.] 6. Any offender under a sentence for first degree murder who has been denied  
35 release on parole after a parole hearing shall not be eligible for another parole hearing until at  
36 least three years from the month of the parole denial; however, this subsection shall not prevent  
37 a release pursuant to subsection 4 of section 558.011, RSMo.

38           [6.] 7. Parole hearings shall, at a minimum, contain the following procedures:

39           (1) The victim or person representing the victim who attends a hearing may be  
40 accompanied by one other person;

41 (2) The victim or person representing the victim who attends a hearing shall have the  
42 option of giving testimony in the presence of the inmate or to the hearing panel without the  
43 inmate being present;

44 (3) The victim or person representing the victim may call or write the parole board rather  
45 than attend the hearing;

46 (4) The victim or person representing the victim may have a personal meeting with a  
47 board member at the board's central office;

48 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local  
49 law enforcement agency investigating the crime shall be allowed to attend the hearing or provide  
50 information to the hearing panel in regard to the parole consideration; and

51 (6) The board shall evaluate information listed in the juvenile sex offender registry  
52 pursuant to section 211.425, RSMo, provided the offender is between the ages of seventeen and  
53 twenty-one, as it impacts the safety of the community.

54 [7.] **8.** The board shall notify any person of the results of a parole eligibility hearing if  
55 the person indicates to the board a desire to be notified.

56 [8.] **9.** The board may, at its discretion, require any offender seeking parole to meet  
57 certain conditions during the term of that parole so long as said conditions are not illegal or  
58 impossible for the offender to perform. These conditions may include an amount of restitution  
59 to the state for the cost of that offender's incarceration.

60 [9.] **10.** Nothing contained in this section shall be construed to require the release of an  
61 offender on parole nor to reduce the sentence of an offender heretofore committed.

62 [10.] **11.** Beginning January 1, 2001, the board shall not order a parole unless the  
63 offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that  
64 the offender, while committed to the custody of the department, has made an honest good-faith  
65 effort to obtain a high school diploma or its equivalent; provided that the director may waive this  
66 requirement by certifying in writing to the board that the offender has actively participated in  
67 mandatory education programs or is academically unable to obtain a high school diploma or its  
68 equivalent.

69 **12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
70 **that is created under the authority delegated in this section shall become effective only if**  
71 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
72 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
73 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
74 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
75 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
76 **adopted after August 28, 2005, shall be invalid and void.**

2           **565.085. 1. An offender or prisoner commits the crime of endangering a**  
3 **corrections employee, a visitor to a correctional facility, or another offender or prisoner**  
4 **if he or she attempts to cause or knowingly causes such person to come into contact with**  
5 **blood, seminal fluid, urine, feces, or saliva.**

6           **2. For the purposes of this section, the following terms mean:**

7           **(1) "Corrections employee", a person who is an employee, or contracted employee**  
8 **of a subcontractor, of a department or agency responsible for operating a jail, prison,**  
9 **correctional facility, or sexual offender treatment center or a person who is assigned to**  
10 **work in a jail, prison, correctional facility, or sexual offender treatment center;**

11           **(2) "Offender", a person in the custody of the department of corrections;**

12           **(3) "Prisoner", a person confined in a county or city jail.**

13           **3. Endangering a corrections employee, a visitor to a correctional facility, or**  
14 **another offender or prisoner is a class D felony unless the substance is unidentified in**  
15 **which case it is a class A misdemeanor. If an offender or prisoner is knowingly infected**  
16 **with the human immunodeficiency virus (HIV), hepatitis B or hepatitis C and exposes**  
17 **another person HIV or hepatitis B or hepatitis C by committing the crime of endangering**  
18 **a corrections employee, a visitor to a correctional facility, or another offender or prisoner,**  
**it is a class C felony.**

          565.092. 1. [An inmate,] A patient or respondent is guilty of aggravated harassment of  
2 an employee when, with intent to harass, annoy, threaten or alarm a person in a facility whom  
3 the person knows or reasonably should know to be an employee of such facility [or of the  
4 department of corrections] or the department of mental health or to be an employee of any law  
5 enforcement agency, the person causes or attempts to cause such employee to come into contact  
6 with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.

7           2. For the purposes of this section, ["inmate" means an offender, as defined in section  
8 217.010, RSMo, or any person incarcerated in a local detention facility. For the purposes of this  
9 section,] "patient" means any person who is a patient in a facility operated by the department of  
10 mental health. For purposes of this section, "respondent" means a juvenile in a secure facility  
11 operated and maintained by the division of youth services. For purposes of this section, "facility"  
12 means a [correctional facility or local correctional facility,] hospital operated by the department  
13 of mental health or a secure facility operated by the division of youth services.

14           3. [No person convicted and serving a sentence for the crime of aggravated harassment  
15 of an employee pursuant to the provisions of this section shall be eligible to participate in a work  
16 release program pursuant to section 217.435, RSMo.

17           4.] Any person who violates the provisions of this section is guilty of a class A  
18 misdemeanor.