

SECOND REGULAR SESSION

HOUSE BILL NO. 2341

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIPKE.

5386L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 559.036, RSMo, and to enact in lieu thereof one new section relating to probation revocation proceedings, with an emergency clause.

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

Section A. Section 559.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 559.036, to read as follows:

559.036. 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the Missouri court.

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation. Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him on the existing conditions, with or without modifying or enlarging the conditions or extending the term, or, if such continuation,

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.

18 modification, enlargement or extension is not appropriate, may revoke probation and order that
19 any sentence previously imposed be executed. If imposition of sentence was suspended, the
20 court may revoke probation and impose any sentence available under section 557.011, RSMo.
21 The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all
22 or part of the time the defendant was on probation. The court may, upon revocation of probation,
23 place an offender on a second term of probation. Such probation shall be for a term of probation
24 as provided by section 559.016, notwithstanding any amount of time served by the offender on
25 the first term of probation.

26 4. Probation shall not be revoked without giving the probationer notice and an
27 opportunity to be heard on the issues of whether he violated a condition of probation and, if he
28 did, whether revocation is warranted under all the circumstances.

29 5. The prosecuting or circuit attorney may file a motion to revoke probation or at any
30 time during the term of probation, the court may issue a notice to the probationer to appear to
31 answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such
32 notice shall be personally served upon the probationer. The warrant shall authorize the return
33 of the probationer to the custody of the court or to any suitable detention facility designated by
34 the court. Upon the filing of the prosecutor's or circuit attorney's motion or on the court's own
35 motion, the court may immediately enter an order suspending the period of probation and may
36 order a warrant for the defendant's arrest. The probation shall remain suspended until the court
37 rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the
38 probation reinstated.

39 6. The power of the court to revoke probation shall extend for the duration of the term
40 of probation designated by the court and for any further period which is reasonably necessary for
41 the adjudication of matters arising before its expiration, provided that some affirmative
42 manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the
43 period and that every reasonable effort is made to notify the probationer and to conduct the
44 hearing prior to the expiration of the period.

45 **7. Probation revocation proceedings are a part of the original criminal case and**
46 **therefore a defendant shall not be entitled to an automatic change of judge in a probation**
47 **revocation proceeding.**

Section B. Because immediate action is necessary to protect the public by ensuring that
2 the criminal justice system is conducted in an efficient and timely manner section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and approval.

✓